

**WALDPORT PLANNING COMMISSION  
JANUARY 28, 2019  
MEETING NOTICE AND AGENDA**

THE WALDPORT PLANNING COMMISSION WILL MEET ON MONDAY, JANUARY 28, 2019 AT 2:00 P.M. IN THE CITY COUNCIL MEETING ROOM, 125 ALSEA HIGHWAY, TO TAKE UP THE FOLLOWING AGENDA:

1. CALL TO ORDER AND ROLL CALL
2. MINUTES: (December 3, 2018)
3. CITIZEN COMMENTS AND CONCERNS (Memo attached)
4. CORRESPONDENCE – None
5. PUBLIC HEARING – Planned Development File #1-PD-PC-17 Vista View Planned Development (LUBA Remand Hearing)
6. ELECTION OF PLANNING COMMISSION CHAIR AND VICE CHAIR
7. PUBLIC HEARINGS – Deliberations on Proposed Amendments to Waldport Development Code
  - A. Mobile Vending
  - B. Conex and Other Metal Containers
  - C. Livestock
  - D. Downtown District (D-D)
  - E. Notification of Land Use Applications
  - F. Appeal Timing and Proceedings
  - G. Planned Development and subdivision Time Limits
8. DISCUSSION/ACTION ITEMS:
  - A. Planning Report
  - B. Other Issues\*
9. COMMISSION COMMENTS AND CONCERNS
10. ADJOURNMENT

\*Denotes no material in packet

*The Council Chambers are accessible to all individuals. If you will need special accommodations to attend this meeting, please call City Hall at (541)264-7417 during normal business hours.*

Notice given this 22<sup>nd</sup> day of January 2019

City of Waldport

**WALDPORT PLANNING COMMISSION  
DECEMBER 3, 2018  
MEETING MINUTES**

1. **CALL TO ORDER AND ROLL CALL:** In the absence of Chair Woodruff, Commissioner Barham chaired the meeting, calling it to order at 2:00 p.m. Commissioners Virtue, Stole, Barham, Kelleher, Phillips and Schlosser answered the roll. Commissioner Woodruff was excused. A quorum was present.

2. **CITIZEN COMMENTS AND CONCERNS:** Hollis Lundeen asked if there had been any permission given to disturbing the natural environment at the top end of Norwood Drive. City Planner Lewis responded that there had been no request for permits, but they would not be necessary if someone is clearing their own property. Ms. Lundeen clarified that she was speaking of an area at the end of Norwood Drive that is supposedly under the jurisdiction of the City, and she was gravely concerned about the work being done. Mr. Lewis indicated he would look into the issue.

3. **MINUTES:** The Commission considered the minutes from the October 28, 2018 meeting. Commissioner Stole noted a redundancy on Page 5, 5th line. Commissioner Phillips **moved** to approve the minutes as corrected. Commissioner Stole **seconded**, and the motion **carried** unanimously.

4. **CORRESPONDENCE:** City Planner Lewis noted distribution of a letter from Daniel Mummey regarding the public hearing, which would be considered during the hearing process. There was no additional correspondence.

5. **PUBLIC HEARINGS:** Commissioner Barham explained that there were signup sheets for each topic, and asked that people sign up to speak. He noted that items "A", "B" and "F" included all the revisions proposed by the Commission, while the remaining items had some revisions that had not been included in the final version. He suggested that the Commission take up the three that were intact first, then move on to the items that may require more extensive discussion. **Consensus** of the Commission was favorable to the suggestion. Mr. Barham also noted that the intent of the public hearing was to allow for citizen input, and that deliberations would probably be deferred to the next meeting to give the Commission an opportunity to consider the testimony.

Mobile Vending: Commissioner Barham opened the public hearing at 2:13 p.m. There were no public comments. City Planner Lewis handed out the written testimony from Daniel Mummey with his comment on mobile vending, which he also read into the record. Mr. Mummey felt that mobile vending should be a conditional use or special use within stated commercial zones. Commissioner Barham closed the public hearing at 2:16 p.m.

Conex and Other Metal Containers: Commissioner Barham opened the public hearing at 2:17 p.m. Tamara Bailey from Grampa's Feed and Pet Supply indicated that the notification letter was not specific. Their business is located on five acres of property east

of town, currently zoned C-2 (General Commercial). Her concern was that they do store hay, feed and burning pellets in these types of containers, and have for over fifteen years. To remove them and erect buildings for storage would be costly for construction, as well as insurance. Robert Conway, who owns Coast Equipment up on Crestline Drive, noted he rents and sells these storage containers, and wondered how the concern had arisen. Commissioner Barham responded that the topic had been complaint-driven, with appearance being one of the issues. Shirley Hanes noted that the description was rather confusing, and Commissioner Barham clarified that this was specific to metal cargo containers. Joe Vandehey indicated that, as a general contractor, he has utilized them in the past for storage on construction sites, and they have proven to be very convenient. He wondered if there were any provisions for a temporary use on construction sites. City Planner Lewis responded that currently the language only allowed them in the Industrial Zone, but staff had been discussing the idea of extending that to Public Facilities and the General Commercial zones as well, if there were also screening provisions included. They could also be allowed as a temporary use on construction sites if the Commission desired. He then read the written comment from Mr. Mummey, who felt that the containers made sense as a temporary use to provide secure storage for construction or events in zones other than Industrial. Commissioner Barham closed the public hearing at 2:31 p.m.

Appeal Timing and Proceedings: Commissioner Barham opened the public hearing at 2:32 p.m. Hollis Lundeen opined that it was unfair to appellants that changes would be made for the City Planner in giving notice of an appeal, and not proportionally to any potential appellant for filing the appeal. She asked the Commission to consider not adopting the amendment, but if they did she felt that eleven days should be added onto the current fifteen-day appeal period for potential appellants as well. No additional comments were received, and Commissioner Barham closed the public hearing at 2:37 p.m.

Livestock: Commissioner Barham noted an editorial change which did not substantially change the proposed language. He then opened the public hearing at 2:38 p.m. City Planner Lewis read the statement from Mr. Mummey, who noted that homeowner association prohibitions to keeping livestock should take precedence over the City allowing permits. He also felt that if they were not kept within proper confines they may attract predators and become a safety hazard to the public. Tiffany Miner asked that the Commission consider allowing small livestock such as pygmy goats or sheep. In response to a query from Commissioner Virtue, Ms. Miner noted that if the language specified pygmy or Nigerian miniature goats it would provide a size limitation. Forrest Baker added that his research into other city regulations had shown that those who allowed goats limited the number of animals to two per acre, and specified a size limitation. No additional comments were received, and Commissioner Barham closed the public hearing at 2:51 p.m.

Planned Development and Subdivision Time Limits: Commissioner Barham noted that the words "If no request for final approval or time extension has been received within the approved period, the tentative plan approval shall expire" had been omitted from Section 16.100.050.E. There were no objections to proceeding with the hearing. Commissioner

Barham opened the public hearing at 2:53 p.m. Hollis Lundeen noted that she felt the language should remain unchanged, as the current time limits ensure that developers would complete a development within a specific time frame rather than allowing them to become an ongoing issue. Joe Vandehey noted that he had a preliminary approval about ten years ago, but could not complete the process within the given time frame, so he is now looking at partitioning the property rather than developing a subdivision. Edgar Lohmeyer suggested that the community consider obtaining the property from the old Township 13 phase 3 which had expired, in order to preserve the property for the benefit of the Lint Slough estuary. Commissioner Barham closed the public hearing at 3:07 p.m.

Downtown District, and Notification of Land Use Applications: Commissioner Barham noted that the stated distance of the side yard setbacks should include the requirement of a minimum of six feet between buildings, which could be a material change as it does differ from what had been sent in the notice of public hearing. With regard to the notification of land use applications, he indicated that the Commission had asked for a definition of "active homeowner's association", which was also not included in the notice of proposed revisions. The Commission should determine whether these were substantial enough changes to warrant tabling the discussion and moving these items to the next public hearing process or proceed with the public hearing. If the Commission wished to proceed, they could receive testimony and then continue the hearing to the next public hearing process. Consensus of the Commission was to hear the testimony from those present. Pauline Gates submitted a letter of testimony to be considered for the proposed revisions to the downtown district requirements. There was no additional testimony at present for that topic. City Planner Lewis indicated that the letter from Mr. Mummey supported the concept of expanding notification of land use applications to include active homeowner associations and those property owners whose property fronted an affected street. Shirley Hanes addressed the Commission, supporting the expansion of notification to properties fronting affected streets and citing the recent Vista View project as an example, as her property fronts Norwood, but she did not receive a notice. Hollis Lundeen also supported expanding the notification area, and asked whose responsibility it was to determine which properties could be affected. Joe Vandehey felt that, depending on the type of land use being proposed, homeowner association notification may not be always be necessary. Following further discussion, **consensus** of the Commission was to include both topics in the next public hearing process.

6. Discussion/Action Items:

A. Planning Report: No action required.

B. Other Issues: City Planner Lewis indicated that the City had received a grant to update the Transportation System Plan. A committee was being formed to assist in the process, and at least one member of the Planning Commission would be needed. Following a brief discussion, Commissioner Phillips volunteered to be on the committee, and Commissioner Barham volunteered to be the alternate.

7. Commission Comments and Concerns: None.

8. Adjournment: At 3:35 p.m., there being no further business to come before the Commission, the meeting was adjourned.

Respectfully submitted,

Reda Q Eckerman, City Recorder

APPROVED by the Planning Commission this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

SIGNED by the Chair this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_

Chair

January 22, 2019

**To: Waldport Planning Commission**

**From: Larry Lewis, City Planner**

**Re: Case File #2-PAR-18 Thissell Partition**

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Commissioners received correspondence from nearby neighbors on the tentative approval of Case File #2-PAR-18, a 2-lot partition accessed from Fernwood Lane. This memorandum provides a brief response to concerns expressed by the neighbors.

**Partition versus Subdivision**

A 3-lot partition was approved for the subject property in 2017. A 2-lot partition application was submitted December 2018 to divide one of the lots into two lots therefore creating a total of four lots. Neighbors stated that the second partition request circumvented the required Planning Commission review and public hearing required by a 4 lot subdivision. The neighbors' primary concern is the increased use of Fernwood Lane and road maintenance.

Waldport Development Code Section 16.100.020 Approval of partitions, item 'C' states "if it is determined that continuous partitioning of a tract of land may occur in subsequent years which may result in the need for a new road(s), utilities, or stormwater drainage facilities to be constructed, thereby impacting City services and surrounding property, the application shall be referred to the Planning Commission for a determination as to whether the development should be subject to the subdivision requirements of this article". City staff determined the 2-lot partition does not create a new road. No off-site utilities are proposed to be constructed. No on-site utilities or stormwater drainage facilities to be constructed will impact City services or surrounding property.

**Access and Maintenance of Fernwood Lane**

Access to the subject property is from Fernwood Lane. Fernwood Lane is outside the Waldport City Limits and under the jurisdiction of Lincoln County.

The 2017 3-lot partition included a condition of approval that "Access along Fernwood Lane and from Fernwood Lane to each parcel requires review and approval by the Central Coast Fire & Rescue District. Prior to final plat approval, the applicant shall provide written documentation from Central Coast Fire & Rescue District that adequate access is provided to each lot." Yachats Rural Fire Protection District (YRFPD) has jurisdiction of this area therefore YRFPD provided a letter to the City stating acceptance of the access with the provision that the compacted road surface has a 15" surface.

The 2018 2-lot partition includes the same condition of approval (by YRFPD).

Per the Lincoln County Public Works Director, Fernwood Lane is a local access road, otherwise called a public road. Fernwood Lane is to be maintained by the users of the road, i.e. those

adjacent to the road are responsible for its maintenance. If not in place, staff recommends the users of the road work together to establish a road maintenance plan and responsibilities.

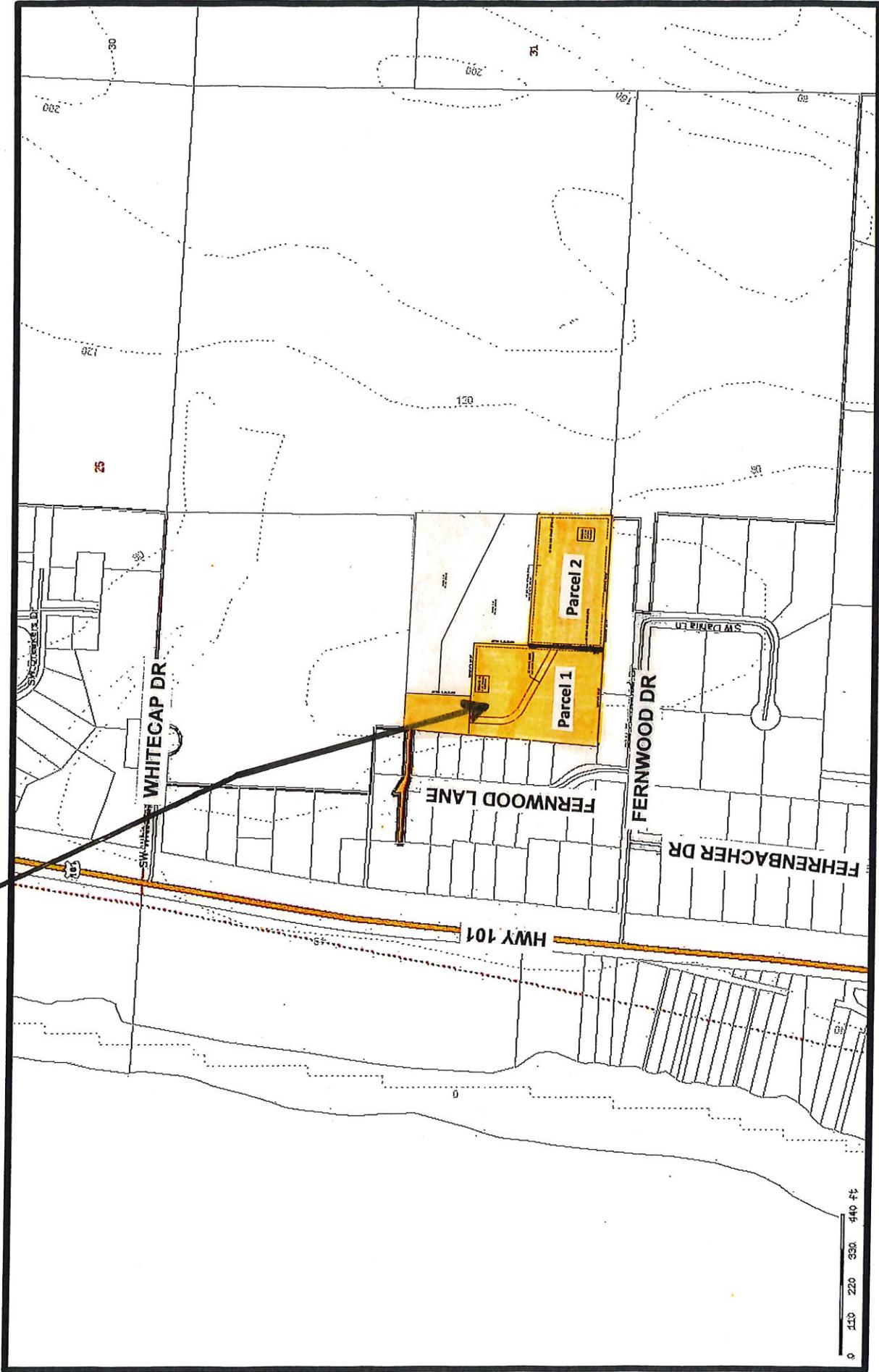
### **Conditions of Tentative Approval**

For your information, the conditions of the tentative approval of the 2-lot partition are provided below. Please note the current zoning requires a minimum 2-acre lot. No further division of the subject property may occur with the current zoning.

1. **Conformance with RR-2 Uses and Standards.** Upon final plat approval and recordation, each parcel may be developed with uses allowed in the RR-2 zone. Parcels shall adhere to RR-2 standards, i.e. lot area, lot-to-depth ratio, yards and setbacks, building height, etc.
2. **Recorded Plat.** A recorded plat of the partition meeting the requirements of Section 16.100.050(H) and ORS 92.050-92.100 shall be submitted to the city planner for a determination of substantial conformity with the tentative plan. If the approved tentative plan is to be substantially revised, such revision shall be filed as a new application for tentative plan approval. The partition plat shall include any proposed easements for access and/or utilities.
3. **Access.** Access along Fernwood Lane and from Fernwood Lane to each parcel requires review and approval by the Yachats Rural Fire Protection District. Prior to final plat approval, the applicant shall provide written documentation from Yachats Rural Fire Protection District that adequate access is provided to each lot.
4. **Water.** Prior to final plat approval, the applicant shall obtain written verification from Southwest Lincoln County Water District that water service is available to be provided to each parcel.
5. **Sewer.** Prior to final plat approval, the applicant shall provide septic approval certification by Lincoln County for each parcel. When septic approval has been obtained, the property owner will be required to waive objection to the formation of an LID for the purpose of providing sewer to the property. In the event that sewer becomes available to parcel(s), replacement of a septic system will not be allowed. Parcels with adequate septic systems will not be required to hook up to sewer until such time as replacement of the septic system is necessary.
6. **Drainage.** Prior to development of the private street, utilities, parcel development and buildings, any off-site improvements, or any other development, the applicant shall submit plans for drainage improvements and receive approval by the Waldport Public Works Department.
7. **Timing.** The appeal period of this tentative approval expires Monday, January 14, 2019 at 5:00 p.m. This tentative approval is valid for a period of two years from January 14, 2019, within which time the applicant must fulfill all conditions necessary for final approval, or obtain a time extension as contained in Chapter 16.100.050(F) of the Waldport Municipal Code. Failure to obtain final approval or request a time extension will invalidate this tentative partition approval.

Enclosures: Pam and Carl Corey 1/14/19 Email  
Marsha and Ed Swartz 1/16/19 Email

# Subject Property



Printed 05/22/2017

Lincoln County government use only. Use for any other purpose is entirely at the risk of the user.

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.



## Larry Lewis

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**From:** Pam and Carl Corey <cpcorey@gmail.com>  
**Sent:** Monday, January 14, 2019 6:49 AM  
**To:** Larry Lewis  
**Subject:** Brandt Thissell, Case File #2-PAR-18

We are out of the state and unable to formally appeal the Tentative Decision Brandt Thissell, Case File #2-PAR-18 by the January 14 deadline. However we do formally contest this decision. This parcel was divided into three parcels in 2017. It has now been surreptitiously divided into four lots, circumventing the required Planning Commission review and Public hearing required by a 4 lot subdivision.

The use of Fernwood Lane to access this 4 lot subdivision will cause undue wear and tear on the lane. The developer of the lot/subdivision at this point has no obligation for repair of or future shared maintenance of the sole access road, Fernwood Lane. As Fernwood Lane is not within the City limits, the City has just passed on addressing access needs to these parcels on any area than the property itself. This combined with allowing division into three parcels in 2017 and then further dividing the property into a fourth parcel now is circumventing their own process for a 4 lot subdivision.

In addition to 4 residences, given the 21 allowable conditional uses of these lots it is clearly unknown what the future use, wear and tear will be on Fernwood Lane.

The developer of the subdivision has, at this point, no obligation for erosion control onto adjoining down slope landowners.

Other landowners along Fernwood Lane have been denied the proper relief of Public meeting and Planning Commission review of the proposed 4 lot subdivision.

In addition, we request the Staff report for this tentative decision and note that in the Staff report for the original subdivision, PAR-17 is unclear on what the access road width is to be. It says the plan allows for the required minimum width of 110.09 feet.

Partial relief to these concerns would be a required road use agreement to be drafted and agreed to by all who will use Fernwood Lane to access their properties.

Respectfully,  
Pam and Carl Corey  
3509 Fernwood Lane  
Waldport OR

**Larry Lewis**

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**Subject:** FW: Fern wood Road and new subdivision along it

----- Forwarded message -----

From: **Marsha Swartz** <[edmarsha@hotmail.com](mailto:edmarsha@hotmail.com)>

Date: Wed, Jan 16, 2019, 7:33 AM

Subject: Fern wood Road and new subdivision along it

To: [steve.w.barham@gmail.com](mailto:steve.w.barham@gmail.com) <[steve.w.barham@gmail.com](mailto:steve.w.barham@gmail.com)>

Dear Mr Barham, my husband and I are co-owners of cabin number 3 in the little group of cabins called "Pinecrest" west of Fernwood Road. We were advised of the development going in along Fernwood and behind the Corey house by Pam Corey. In an ideal world, the forest there would have remained and all would be at peace-however-it seems many of the trees are gone, soon to be replaced by houses. Fernwood is a crucial access road for the Coreys and for fire protection above Pinecrest. Please reconsider dividing more of the lots above us! The large trees above Pinecrest will be weakened by not having other trees behind them, as well as more traffic on Fernwood. Please do not further divide the new lots!! Yours, Marsha and Ed Swartz

Sent from my iPhone

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[Total Control Panel](#)

[Login](#)

To: [larry.lewis@waldport.org](mailto:larry.lewis@waldport.org)

[Remove](#) this sender from my allow list

From: [steve.w.barham@gmail.com](mailto:steve.w.barham@gmail.com)

*You received this message because the sender is on your allow list.*

January 18, 2019

**To: Waldport Planning Commission**

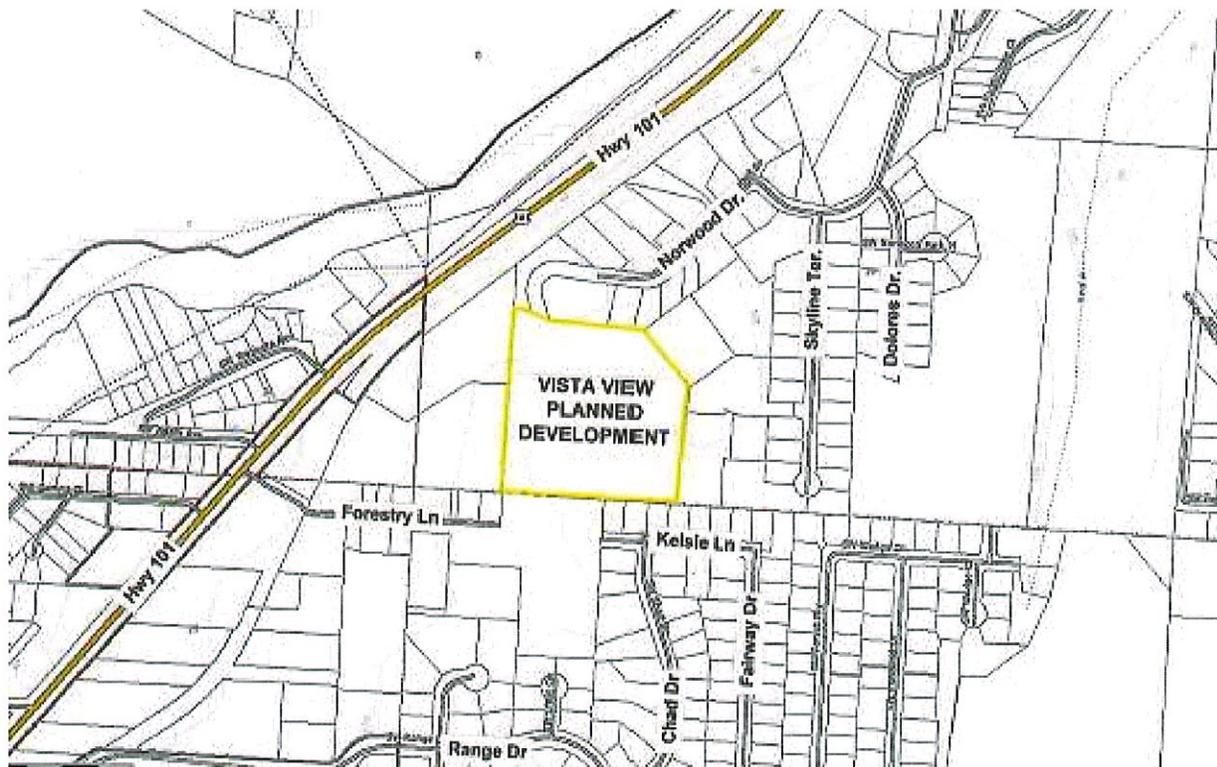
**From: Larry Lewis, City Planner**

**Re: Remand Hearing for Case File #1-PD-pc-17 Vista View Planned Development**

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The applicant, Tidewater Development LLC, is requesting approval of a Planned Development (Vista View) for 34 single family homes/lots on 7.75 acres. The City's Preliminary Plan approval was appealed to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

**Property Location:** The subject property is located at the south end of Norwood Drive; and further described on Lincoln County Tax Assessor's Map 13-11-19CC as tax lot 120.



**Summary of LUBA Final Order and Opinion:** A summary of LUBA's conclusion regarding storm water drainage and pollution is provided below. The complete conclusion is available for review in the attached LUBA Final Opinion and Order, pages 18-19.

Waldport Development Code (WDC) requires the city to determine during the preliminary plan stage that "the proposed facilities are adequate for the population densities and type of development proposed *and will not create a drainage or pollution problem outside the planned area.*" LUBA agreed with the petitioner that the city's findings failed to explain whether the storm drainage facilities are adequate to serve the proposed development and that the proposed

development will not create a drainage or pollution problem outside the planned area. Therefore, remand is required to allow the city to determine whether the proposed storm drainage facilities are adequate to serve the proposed development.

**Planning Commission Hearing:** At the January 28, 2019 Planning Commission meeting, the Commission will hold a public hearing to consider the adequacy of the proposed storm drainage facilities for the proposed Vista View Planned Development. Per the LUBA Final Order and Opinion, the storm drainage issue is the only issue to be addressed at the public hearing. All other aspects of the proposed planned development have been adequately addressed and described in the preliminary plan approval.

**Applicant Submittal:**

**(Draft) Findings of Fact on Storm Drainage (attached):** The applicant provided draft Findings of Fact on Storm Drainage. This document identifies 14 proposed Findings and a Conclusion.

**Storm Water Drainage and Downstream Analysis (attached):** The applicant provided a storm water drainage and downstream analysis which includes the following:

- Letter with purpose and description of the proposed stormwater drainage
- Exhibit "A" Stormwater Drainage Basin Map
- USDA Hydrologic Soil Group Map
- TR 55 Small Watershed Runoff Curve numbers
- Oregon Isopluvial map of 10-YR 24-HR Precipitation
- Photos

**Public Testimony:** No written testimony was received by the city at the time this memorandum was prepared.

**Planning Commission Action:** At the January 28, 2019 Planning Commission hearing, public testimony will be taken from all who wish to speak. The subject matter shall be limited to the storm drainage issue. The Planning Commission will then deliberate on whether or not the proposed storm drainage can be adequately managed without an adverse impact on other properties and the current off-site system is adequate to handle the runoff.

The Planning Commission will then make a decision of approval or denial, or determine that additional information is required in order to make an informed decision. In the event of an approval, the following conditions are recommended which may be amended at the discretion of the Planning Commission. These conditions are in addition to those described in the attached March 9, 2018 Findings and Conclusions.

- (Revised) 11. **Phasing and Time Limits of a Preliminary PD Approval.** Phase 1 shall consist of 19 lots including lot numbers 11-24 and 25, 34, 33, 32 and 31 as shown on the submitted plan. The number of lots in additional phases shall be determined by

market conditions and the rate of sale of developed lots. The street extension to the south property line shall occur in Phase 2. The phasing plan shall be as follows:

Phase 1: January 2019 – January 2021

Phase 2: January 2021 – January 2023

Phase 3: January 2023 – January 2025

Phase 4: January 2025 – January 2027

- (New) 13. Based upon the testimony presented, the Planning Commission concludes that storm drainage will cause no adverse impacts to the area and reapproves the Vista View Planned Development pursuant to the terms of the City Council on March 8, 2018 with the 14 additional Findings of Fact prepared by the applicant.

Staff will amend the Findings and Conclusions to include the 14 additional Findings, the revised conditions of approval, and the new condition of approval.

- Enclosures:
- Applicant Findings of Fact on Storm Drainage
  - Vista View Preliminary Plan – Stormwater Drainage and Downstream Analysis with attachments, Ironmark LLC Surveying & Engineering
  - Final Opinion and Order, LUBA No. 2018-030
  - City Council Findings and Conclusions
  - Vista View Planned Development Preliminary Plan

LAW OFFICE OF DENNIS L. BARTOLDUS

380 SW 2<sup>nd</sup> Street  
PO Box 1510 Newport, OR 97365  
541-265-5400/541-265-7633 fax  
www.bartolduslaw.com

Dennis L. Bartoldus  
dennis@bartolduslaw.com

December 17, 2018

Larry Lewis  
Waldport City Planner  
PO Box 1120  
Waldport, OR 97394

RE: Additional Information on PUD for Tidewater Development LLC  
Case File #1-PD-PC-17

Dear Mr. Lewis:

Please find enclosed the submittal on behalf of Tidewater Development LLC addressing storm water drainage.

I understand that the hearing from the LUBA remand will be held on January 28 at 2:00 p.m. before the Planning Commission.

If you have any questions, please contact me.

Very truly yours,

  
DENNIS L. BARTOLDUS

DLB/jsb  
Enclosure

**BEFORE THE PLANNING COMMISSION  
OF  
WALDPORT, OREGON**

**Request for Planning Development  
Applicant: Tidewater Development LLC**

**Case File #1-PD-PC-17  
Agent: Dennis L. Bartoldus, Attorney**

**FINDINGS OF FACT ON STORM DRAINAGE**

1. This case previously was heard by the Waldport Planning Commission. The Planning Commission approved the application with conditions on December 18, 2017.

2. The decision of the Planning Commission was appealed to the Waldport City Council. By Hollis Lundeen. The City Council held a hearing on the appeal on February 22, 2018.

The City Council Essentially upheld the decision of the Planning Commission, slightly modifying one of the conditions to provide the easement trail would be constructed as part of Phase 1 of the project. The Final Order of Findings and Conclusions was issued on March 8, 2018.

3. Hollis Lundeen appealed the decision of the City Council to the Oregon Land Use Board of Appeals (LUBA). In its decision LUBA generally upheld the decision of the City but remanded the case back to the City on one issue, that being to further address the issue of storm drainage.

4. The Waldport Planning Commission held a hearing on the remanded issue of storm drainage on \_\_\_\_\_. The hearing was duly noticed as required by the ordinance. All interested parties were given the opportunity to provide written testimony or to testify in person.

5. Those testifying were:

6. After considering the testimony and submittals of the parties, the Planning Commission determines that storm water can be adequately managed without an adverse impact on other properties and the current off site system in place by the City is adequate to handle the runoff.

7. The engineer for the applicant has completed and submitted a Storm water Drainage and Downstream Analysis.

8. The analysis describes how storm water collected from the site via roof drains and catch basins in the street into the existing storm drainage on the east and north sides of the property. From there the storm water will follow the same path as it historically has, down the vegetated

channel and out to Alsea Bay. The drainage way on the applicants property will remain vegetated.

9. The engineer did a Hydro CAD analysis which shows the existing 30 inch in diameter culvert running beneath Highway 101 is sufficiently sized to accommodate the storm water runoff of the past developed condition of the entire contributing stormwater basin during a 10 year 24 hour rain event which is 5 inches of rainfall in 24 hours per the NOAA isopleth maps. In the event the culvert ever became blocked, the storm water would flow north and be channeled by one of several other ditch inlets and culverts beneath Highway 101 that drain to the bay.

10. By a visual inspection of the property downstream the engineer concluded there were no downstream structures or property at risk of being impacted by storm water quality due to the proposed development. All existing structures sit well above the existing drainage channel.

11. All storm water discharge outlet pipes will have, at a minimum, rip rap rock pads to prevent erosion and prevent sediment from washing downstream.

12. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on site drainage way will remain vegetated which will also help control sediment migration, erosion and filter potential pollutants from discharged storm water. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage way downstream is also heavily vegetated.

13. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional storm water quality requirements or criteria.

14. The applicants engineer advised that the calculations were made using very conservative estimations meaning that he erred on the side of caution in making the calculation.

### CONCLUSION

1. Based upon the testimony presented, the Planning Commission concludes that storm drainage will cause no adverse impacts to the area and reapproves the VISTA VIEW Planned Development pursuant to the terms of the City Council on \_\_\_\_\_ with these additional findings incorporated to support the decision.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Planning Commission Chair

October 30, 2018

Larry Lewis  
Waldport City Planner  
P.O. Box 1120  
Waldport, OR 97394

RE: Vista View Preliminary Plan – Stormwater Drainage and Downstream Analysis

Mr. Lewis,

The purpose of this letter is to provide additional information regarding stormwater drainage of the Vista View Planned Development (Vista View). The subject property is approximately 7.75 acres of gently sloping, vacant land with an existing drainage channel on the east and north side of the property. The existing channel continues westerly and is heavily vegetated down to where it is captured by an existing ditch inlet on the east side of Highway 101 and flows beneath Highway 101 through a 30-inch inside diameter concrete pipe culvert, and then discharges into the Alsea Bay. See the attached Exhibit "A" Stormwater Basin Map, and photos of the existing drainage course for reference.

The Vista View development proposes to discharge the stormwater collected from the site via roof drains and catch basins in the street, into the existing drainage on the east and north sides of the property. From there the stormwater will follow the same path as it historically has, down the vegetated channel and out to the Alsea Bay. The attached HydroCAD analysis shows that the existing 30-inch concrete culvert beneath Highway 101 is sufficiently sized to accommodate the stormwater run-off of the post-developed condition of the entire contributing stormwater basin during a 10-year 24-hr rain event (5-inches of rainfall in 24 hours per NOAA isopluvial map, also attached). In the unlikely event that this ditch inlet or culvert were to become blocked from a lack of maintenance, the stormwater would flow northerly in the existing ditch along Highway 101 and be picked up by one of several other ditch inlets and culverts beneath Highway 101 that also drain to the Alsea Bay. I have visually inspected the downstream stormwater flow path and there are no downstream structures or property at risk of being impacted by stormwater quantity due to the proposed development, the only nearby structures sit well above the existing drainage channel.

Stormwater quality goals may be achieved for the discharged stormwater from Vista View as required by the City of Waldport Public works department. At a minimum, all stormwater discharge outlet pipes will have rip-rap rock pads to prevent erosion and prevent sediment from washing downstream. All site catch basins will have sumps, to help prevent sediment and debris from migrating downstream. The existing on-site, drainage way will remain vegetated which also helps to control sediment migration,

erosion, and filter any potential pollutants from discharged stormwater. Much of the existing drainage on-site has a gentle gradient, which is favorable for settling out any sediment and particulates in the discharged storm water. The drainage way downstream of the subject property is also heavily vegetated. As shown on the preliminary plan, Vista View has set aside the area shown as a "storm water facility area" as an area reserved for meeting any additional stormwater quality requirements or criteria, if required by the City of Waldport Public Works, during the final design review process.

Please feel free to contact me with any questions regarding this stormwater drainage and downstream analysis, or about the Vista View development with regard to meeting the desired stormwater management goals of the City of Waldport.

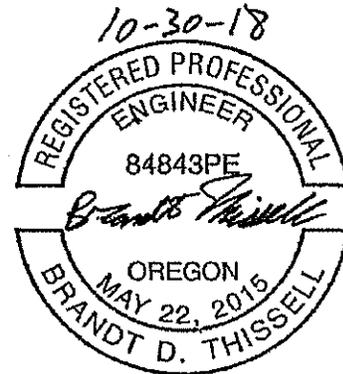
Sincerely,



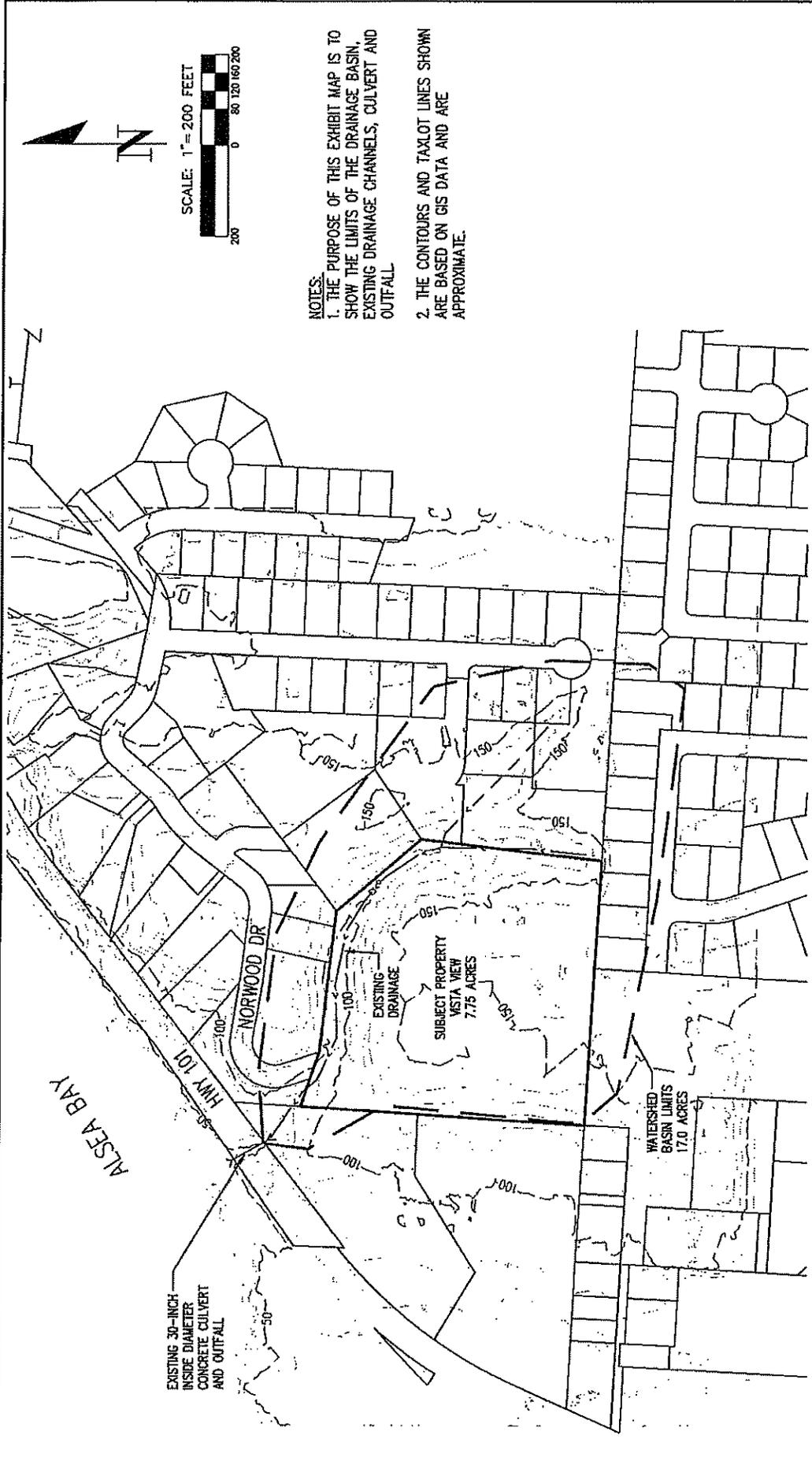
Brandt Thissell, PE

Attachments

- Exhibit "A" Stormwater Drainage Basin Map
- HydroCAD Analysis Report 10-yr 24-Hr Storm
- USDA Hydrologic Soil Group Map
- TR 55 Small Watershed Runoff Curve numbers
- Oregon Isopluvial map of 10-YR 24-HR Precipitation
- Photos



RENEWAL DATE: 6-30-20



**NOTES:**  
 1. THE PURPOSE OF THIS EXHIBIT MAP IS TO SHOW THE LIMITS OF THE DRAINAGE BASIN, EXISTING DRAINAGE CHANNELS, CULVERT AND OUTFALL.  
 2. THE CONTOURS AND TAXLOT LINES SHOWN ARE BASED ON GIS DATA AND ARE APPROXIMATE.

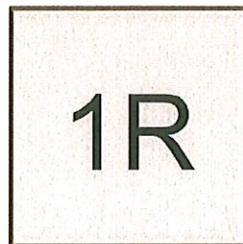
DATE: 10/21/2018  
 EXHIBIT

**STORMWATER DRAINAGE BASIN MAP**

VISTA VIEW PLANNED DEVELOPMENT	EXHIBIT	A
IRONMARK, LLC	DRAWN: BDT	
P.O. BOX 38	CHECKED:	
SAINT PAUL, OR 97137	DATE:	
P: 503.755.8755 ironmarkllc.com	NO.:	1029
<b>IRONMARK</b>		
SURVEYING & ENGINEERING		



Stormwater Basin



Existing Culvert



**1029 STMWTR**

Prepared by Ironmark, LLC

Printed 10/31/2018

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Page 2

**Area Listing (all nodes)**

Area (acres)	CN	Description (subcatchment-numbers)
17.000	87	1/4 acre lots, 38% imp, HSG D (1S)
17.000	87	TOTAL AREA

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Page 3

**Soil Listing (all nodes)**

Area (acres)	Soil Group	Subcatchment Numbers
0.000	HSG A	
0.000	HSG B	
0.000	HSG C	
17.000	HSG D	1S
0.000	Other	
<b>17.000</b>		<b>TOTAL AREA</b>

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Page 4

**Ground Covers (all nodes)**

HSG-A (acres)	HSG-B (acres)	HSG-C (acres)	HSG-D (acres)	Other (acres)	Total (acres)	Ground Cover	Subcatchment Numbers
0.000	0.000	0.000	17.000	0.000	17.000	1/4 acre lots, 38% imp	1S
0.000	0.000	0.000	17.000	0.000	17.000	<b>TOTAL AREA</b>	

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Page 5

**Pipe Listing (all nodes)**

Line#	Node Number	In-Invert (feet)	Out-Invert (feet)	Length (feet)	Slope (ft/ft)	n	Diam/Width (inches)	Height (inches)	Inside-Fill (inches)
1	1R	50.00	48.00	100.0	0.0200	0.017	30.0	0.0	0.0

**1029 STMWTR**

Type IA 24-hr 10-Year Rainfall=5.00"

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Page 6

Time span=0.00-24.00 hrs, dt=0.01 hrs, 2401 points

Runoff by SBUH method, Weighted-CN

Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

**Subcatchment 1S: Stormwater Basin** Runoff Area=740,520 sf 38.00% Impervious Runoff Depth>3.55"  
Flow Length=1,000' Slope=0.1000 '/' Tc=9.6 min CN=87 Runoff=14.85 cfs 5.033 af

**Reach 1R: Existing Culvert** Avg. Flow Depth=1.00' Max Vel=8.14 fps Inflow=14.85 cfs 5.033 af  
30.0" Round Pipe n=0.017 L=100.0' S=0.0200 '/' Capacity=44.36 cfs Outflow=14.85 cfs 5.032 af

**Total Runoff Area = 17.000 ac Runoff Volume = 5.033 af Average Runoff Depth = 3.55"**  
**62.00% Pervious = 10.540 ac 38.00% Impervious = 6.460 ac**

**1029 STMWTR**

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Type IA 24-hr 10-Year Rainfall=5.00"

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Page 7

**Summary for Subcatchment 1S: Stormwater Basin**

Runoff = 14.85 cfs @ 7.99 hrs, Volume= 5.033 af, Depth> 3.55"

Runoff by SBUH method, Weighted-CN, Time Span= 0.00-24.00 hrs, dt= 0.01 hrs  
Type IA 24-hr 10-Year Rainfall=5.00"

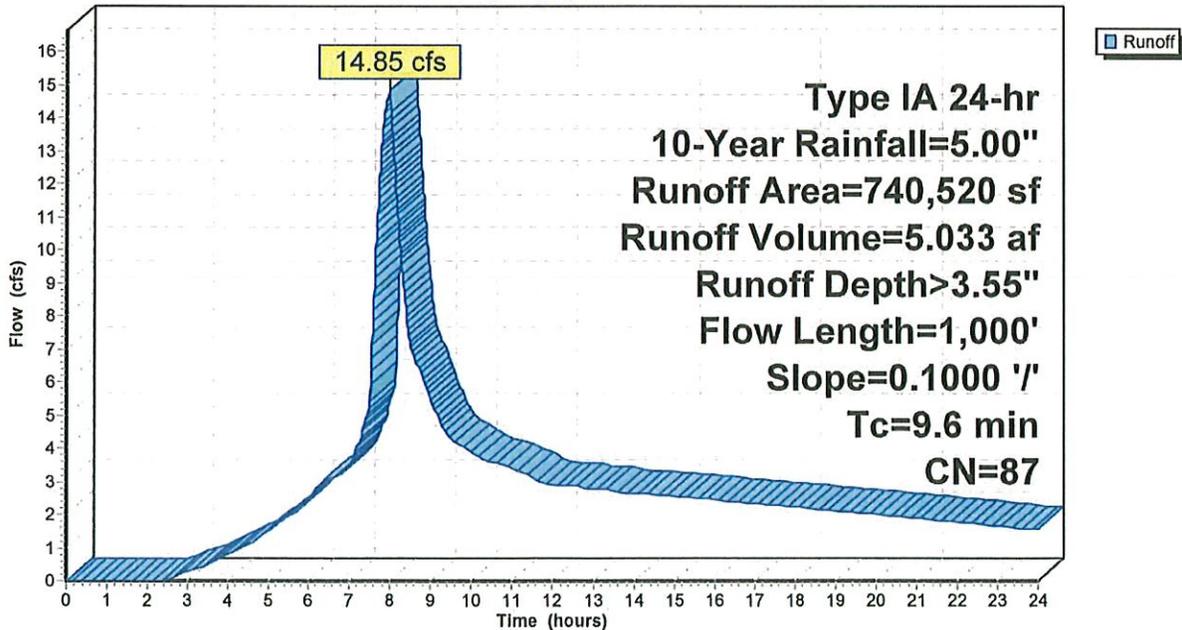
Area (sf)	CN	Description
740,520	87	1/4 acre lots, 38% imp, HSG D
459,122		62.00% Pervious Area
281,398		38.00% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
5.0					Direct Entry, Outfall into channel
4.6	1,000	0.1000	3.59	14.34	Channel Flow, Area= 4.0 sf Perim= 6.0' r= 0.67' n= 0.100 Earth, dense brush, high stage
9.6	1,000	Total			

**Subcatchment 1S: Stormwater Basin**

Hydrograph



**1029 STMWTR**

Prepared by Ironmark, LLC

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Type IA 24-hr 10-Year Rainfall=5.00"

Printed 10/31/2018

Page 8

**Summary for Reach 1R: Existing Culvert**

[52] Hint: Inlet/Outlet conditions not evaluated

Inflow Area = 17.000 ac, 38.00% Impervious, Inflow Depth > 3.55" for 10-Year event  
 Inflow = 14.85 cfs @ 7.99 hrs, Volume= 5.033 af  
 Outflow = 14.85 cfs @ 8.00 hrs, Volume= 5.032 af, Atten= 0%, Lag= 0.6 min

Routing by Stor-Ind+Trans method, Time Span= 0.00-24.00 hrs, dt= 0.01 hrs  
 Max. Velocity= 8.14 fps, Min. Travel Time= 0.2 min  
 Avg. Velocity = 4.80 fps, Avg. Travel Time= 0.3 min

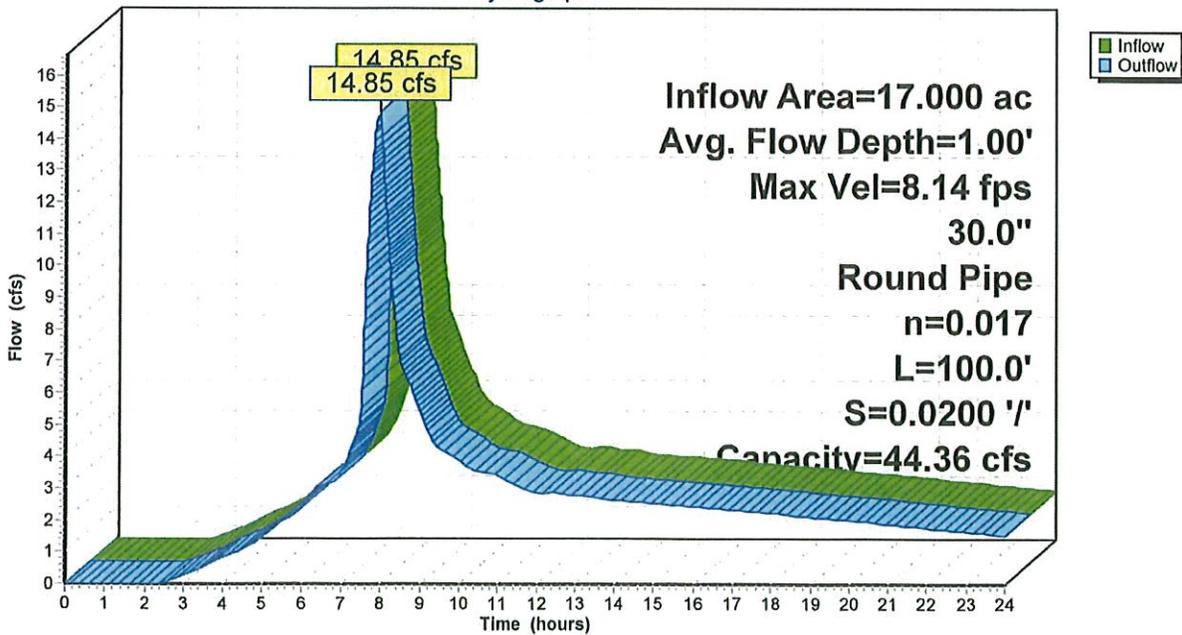
Peak Storage= 183 cf @ 7.99 hrs  
 Average Depth at Peak Storage= 1.00'  
 Bank-Full Depth= 2.50' Flow Area= 4.9 sf, Capacity= 44.36 cfs

30.0" Round Pipe  
 n= 0.017 Concrete, unfinished  
 Length= 100.0' Slope= 0.0200 '/'  
 Inlet Invert= 50.00', Outlet Invert= 48.00'



**Reach 1R: Existing Culvert**

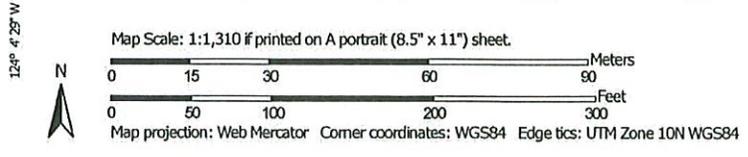
Hydrograph



Hydrologic Soil Group—Alsea Area, Oregon, and Lincoln County Area, Oregon



Soil Map may not be valid at this scale.



## MAP LEGEND

 Area of Interest (AOI)	 Area of Interest (AOI)	 C
 Soils	 C/D	 D
 Soil Rating Polygons	 Not rated or not available	 Not rated or not available
 A	 Streams and Canals	 Water Features
 A/D	 Transportation	 Rails
 B	 Interstate Highways	 US Routes
 B/D	 Major Roads	 Local Roads
 C	 Background	 Aerial Photography
 C/D	 A	
 D	 A/D	
 Not rated or not available	 B	
 Soil Rating Lines	 B/D	
 A	 C	
 A/D	 C/D	
 B	 D	
 B/D	 Not rated or not available	
 C	 Soil Rating Points	
 C/D	 A	
 D	 A/D	
 Not rated or not available	 B	
 A	 B/D	
 A/D		
 B		
 B/D		
 C		
 C/D		
 D		
 Not rated or not available		

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
 Web Soil Survey URL:  
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Alsea Area, Oregon  
 Survey Area Data: Version 14, Sep 17, 2018

Soil Survey Area: Lincoln County Area, Oregon  
 Survey Area Data: Version 15, Sep 17, 2018

Your area of interest (AOI) includes more than one soil survey area. These survey areas may have been mapped at different scales, with a different land use in mind, at different times, or at different levels of detail. This may result in map unit symbols, soil properties, and interpretations that do not completely agree across soil survey area boundaries.

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Aug 27, 2007—Feb 12, 2017

**MAP LEGEND**

**MAP INFORMATION**

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Hydrologic Soil Group

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
De	Depoe silt loam	D	4.6	65.6%
FeD	Ferrelo loam, 5 to 30 percent slopes	B	1.8	25.8%
<b>Subtotals for Soil Survey Area</b>			<b>6.5</b>	<b>91.4%</b>
<b>Totals for Area of Interest</b>			<b>7.1</b>	<b>100.0%</b>

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
42C	Nelscott loam, 3 to 12 percent slopes	C	0.6	8.6%
<b>Subtotals for Soil Survey Area</b>			<b>0.6</b>	<b>8.6%</b>
<b>Totals for Area of Interest</b>			<b>7.1</b>	<b>100.0%</b>

## Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

## Rating Options

*Aggregation Method:* Dominant Condition

*Component Percent Cutoff:* None Specified

*Tie-break Rule:* Higher

# TR55 RUNOFF CURVE NUMBERS

**Table 2-2a** Runoff curve numbers for urban areas <sup>1/</sup>

Cover description	Average percent impervious area <sup>2/</sup>	Curve numbers for hydrologic soil group			
		A	B	C	D
<i>Fully developed urban areas (vegetation established)</i>					
Open space (lawns, parks, golf courses, cemeteries, etc.) <sup>3/</sup> :					
Poor condition (grass cover < 50%) .....		68	79	86	89
Fair condition (grass cover 50% to 75%) .....		49	69	79	84
Good condition (grass cover > 75%) .....		39	61	74	80
Impervious areas:					
Paved parking lots, roofs, driveways, etc. (excluding right-of-way) .....		98	98	98	98
Streets and roads:					
Paved; curbs and storm sewers (excluding right-of-way) .....		98	98	98	98
Paved; open ditches (including right-of-way) .....		83	89	92	93
Gravel (including right-of-way) .....		76	85	89	91
Dirt (including right-of-way) .....		72	82	87	89
Western desert urban areas:					
Natural desert landscaping (pervious areas only) <sup>4/</sup> .....		63	77	85	88
Artificial desert landscaping (impervious weed barrier, desert shrub with 1- to 2-inch sand or gravel mulch and basin borders) .....		96	96	96	96
Urban districts:					
Commercial and business .....	85	89	92	94	95
Industrial .....	72	81	88	91	93
Residential districts by average lot size:					
1/8 acre or less (town houses) .....	65	77	85	90	92
1/4 acre .....	38	61	75	83	87
1/3 acre .....	30	57	72	81	86
1/2 acre .....	25	54	70	80	85
1 acre .....	20	51	68	79	84
2 acres .....	12	46	65	77	82
<i>Developing urban areas</i>					
Newly graded areas					
(pervious areas only, no vegetation) <sup>5/</sup> .....		77	86	91	94
Idle lands (CN's are determined using cover types similar to those in table 2-2c).					

<sup>1</sup> Average runoff condition, and  $I_a = 0.2S$ .

<sup>2</sup> The average percent impervious area shown was used to develop the composite CN's. Other assumptions are as follows: impervious areas are directly connected to the drainage system, impervious areas have a CN of 98, and pervious areas are considered equivalent to open space in good hydrologic condition. CN's for other combinations of conditions may be computed using figure 2-3 or 2-4.

<sup>3</sup> CN's shown are equivalent to those of pasture. Composite CN's may be computed for other combinations of open space cover type.

<sup>4</sup> Composite CN's for natural desert landscaping should be computed using figures 2-3 or 2-4 based on the impervious area percentage (CN = 98) and the pervious area CN. The pervious area CN's are assumed equivalent to desert shrub in poor hydrologic condition.

<sup>5</sup> Composite CN's to use for the design of temporary measures during grading and construction should be computed using figure 2-3 or 2-4 based on the degree of development (impervious area percentage) and the CN's for the newly graded pervious areas.

**Table 2-2c** Runoff curve numbers for other agricultural lands <sup>1/</sup>

Cover type	Cover description	Hydrologic condition	Curve numbers for hydrologic soil group			
			A	B	C	D
Pasture, grassland, or range—continuous forage for grazing. <sup>2/</sup>		Poor	68	79	86	89
		Fair	49	69	79	84
		Good	39	61	74	80
Meadow—continuous grass, protected from grazing and generally mowed for hay.		—	30	58	71	78
Brush—brush-weed-grass mixture with brush the major element. <sup>3/</sup>		Poor	48	67	77	83
		Fair	35	56	70	77
		Good	30 <sup>4/</sup>	48	65	73
Woods—grass combination (orchard or tree farm). <sup>5/</sup>		Poor	57	73	82	86
		Fair	43	65	76	82
		Good	32	58	72	79
Woods. <sup>6/</sup>		Poor	45	66	77	83
		Fair	36	60	73	79
		Good	30 <sup>4/</sup>	55	70	77
Farmsteads—buildings, lanes, driveways, and surrounding lots.		—	59	74	82	86

<sup>1/</sup> Average runoff condition, and  $I_a = 0.2S$ .

<sup>2/</sup> *Poor*: <50% ground cover or heavily grazed with no mulch.

*Fair*: 50 to 75% ground cover and not heavily grazed.

*Good*: > 75% ground cover and lightly or only occasionally grazed.

<sup>3/</sup> *Poor*: <50% ground cover.

*Fair*: 50 to 75% ground cover.

*Good*: >75% ground cover.

<sup>4/</sup> Actual curve number is less than 30; use CN = 30 for runoff computations.

<sup>5/</sup> CN's shown were computed for areas with 50% woods and 50% grass (pasture) cover. Other combinations of conditions may be computed from the CN's for woods and pasture.

<sup>6/</sup> *Poor*: Forest litter, small trees, and brush are destroyed by heavy grazing or regular burning.

*Fair*: Woods are grazed but not burned, and some forest litter covers the soil.

*Good*: Woods are protected from grazing, and litter and brush adequately cover the soil.

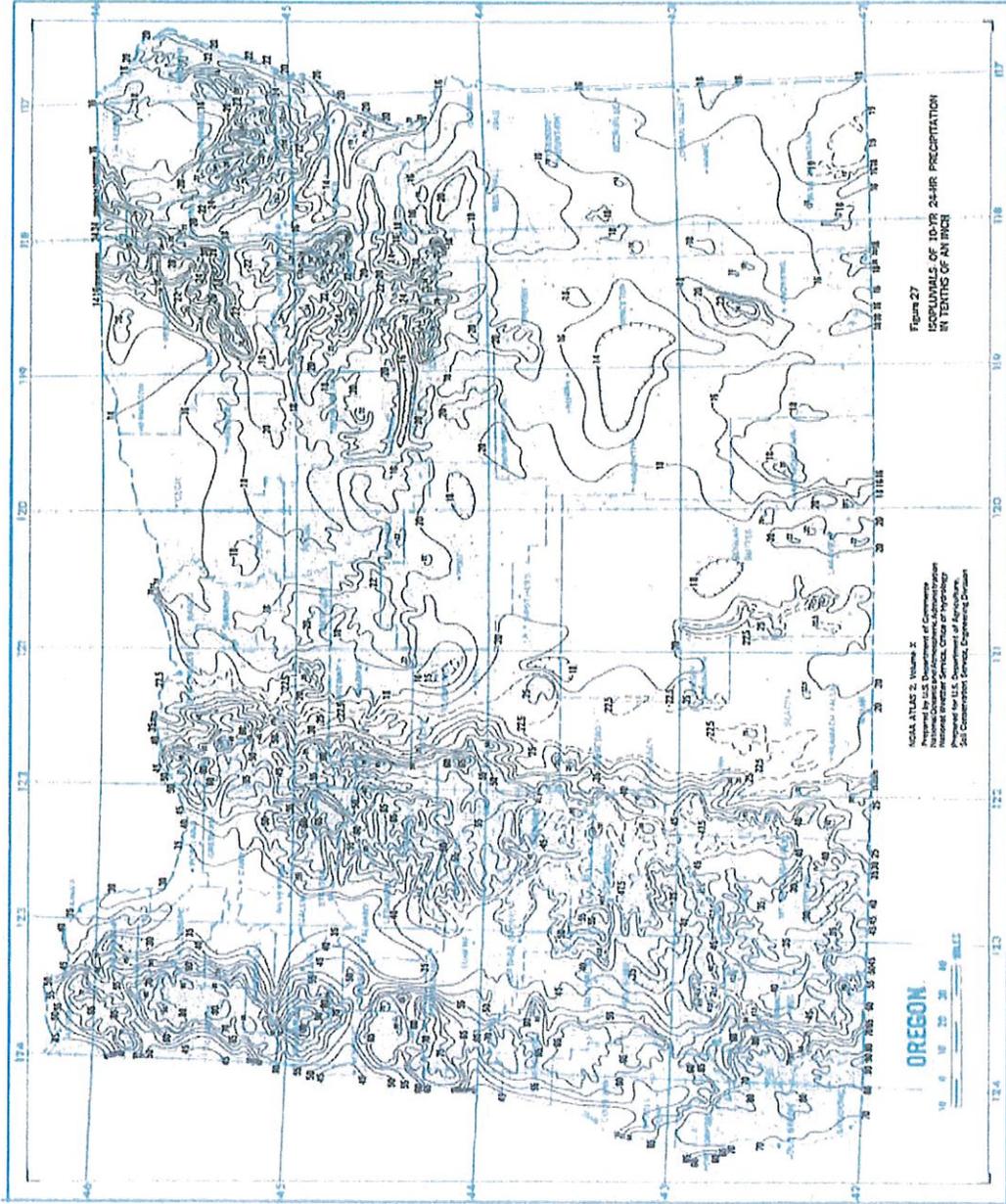


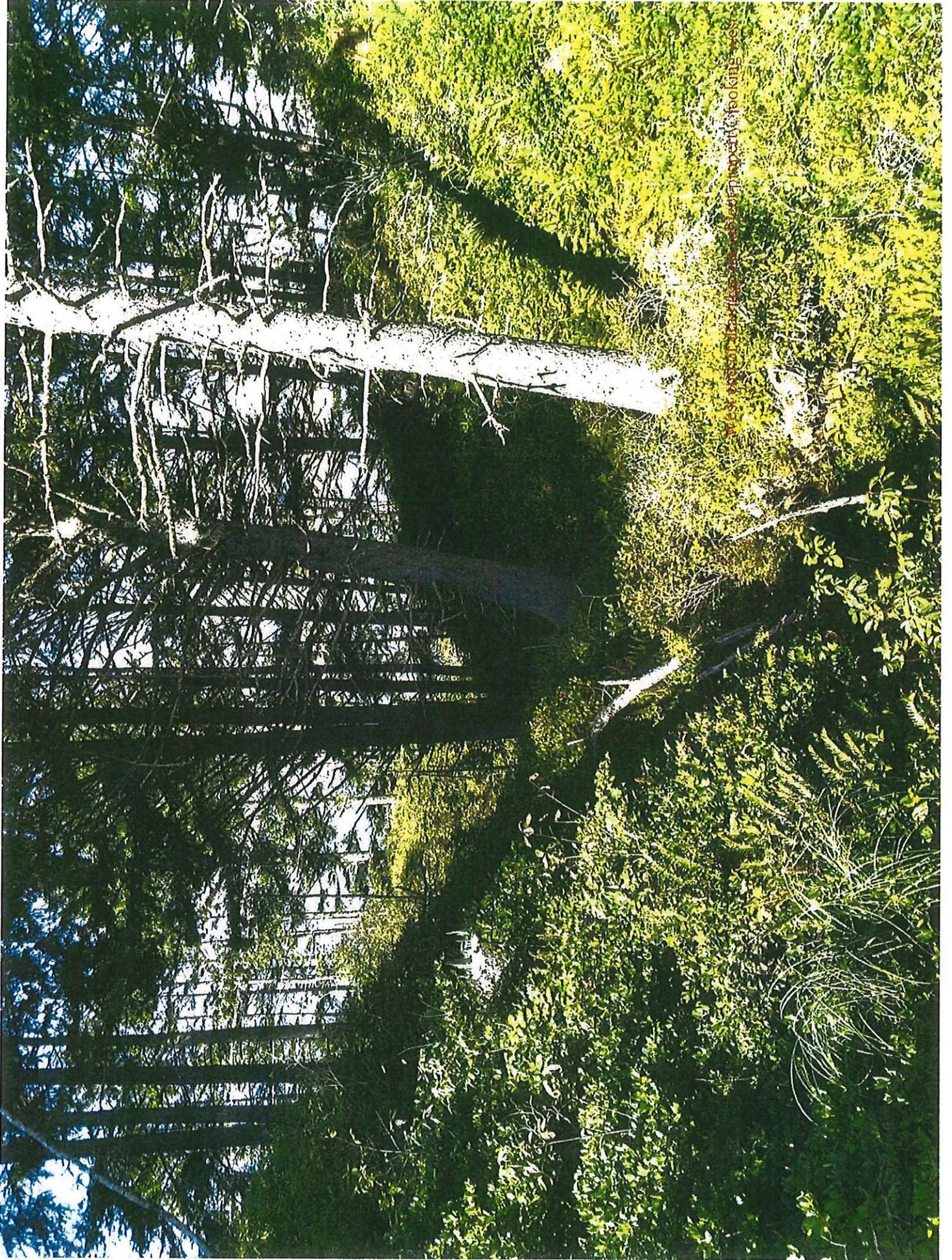
Figure 27  
ISOHYETS OF 10-YR 24-HR PRECIPITATION  
IN TENTHS OF AN INCH

NCAA ATLAS 2, Volume 2  
Prepared by U.S. Department of Commerce  
National Weather Service, Office of Hydrology  
Prepared for U.S. Department of Agriculture,  
Soil Conservation Service, Engineering Center

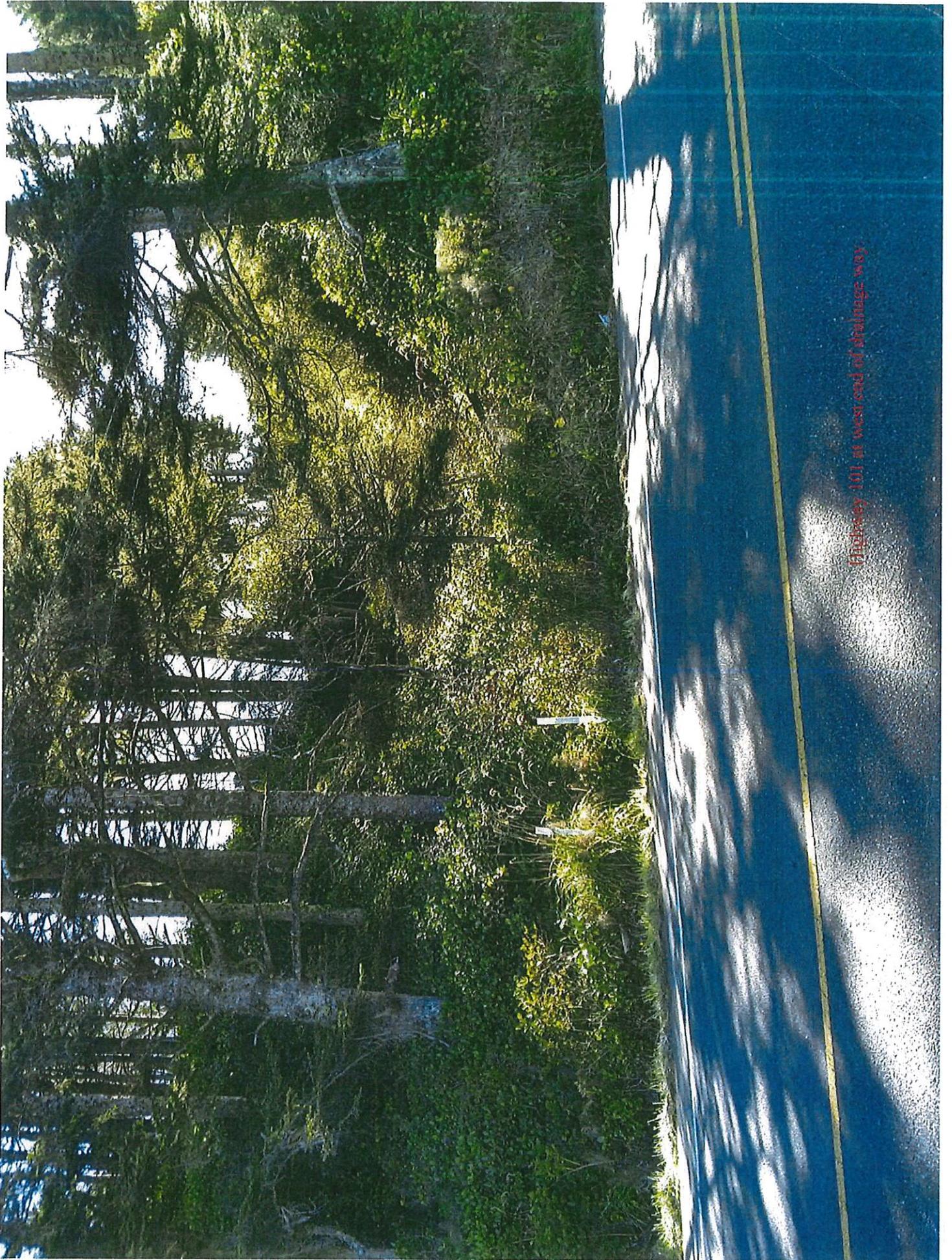
OREGON

West end of drainage on subject property, looking east.





West Coast of British Columbia, Canada, looking west



Highway 101 at west end of drainage way.

1                   BEFORE THE LAND USE BOARD OF APPEALS  
2                   OF THE STATE OF OREGON

08/20/18 AM 11:06 LUBA

3  
4                   HOLLIS LUNDEEN,  
5                   *Petitioner,*

6  
7                   vs.

8  
9                   CITY OF WALDPOR,                     
10                  *Respondent,*

11  
12                  and

13  
14                  TIDEWATER DEVELOPMENT, LLC,  
15                  *Intervenor-Respondent.*

16  
17                  LUBA No. 2018-030

18  
19                  FINAL OPINION  
20                  AND ORDER

21  
22                  Appeal from City of Waldport.

23  
24                  Hollis Lundeen, Waldport, filed a petition for review and argued on her  
25                  own behalf.

26  
27                  No appearance by City of Waldport.

28  
29                  Dennis L. Bartoldus, Newport, filed a response brief and argued on  
30                  behalf of intervenor-respondent.

31  
32                  ZAMUDIO Board Member; RYAN, Board Chair, participated in the  
33                  decision.

34  
35                  BASSHAM, Board Member, did not participate in the decision.

36  
37                  REMANDED

08/20/2018

1           You are entitled to judicial review of this Order. Judicial review is  
2 governed by the provisions of ORS 197.850.

1  
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**NATURE OF THE DECISION**

Petitioner appeals a city council decision that approves a preliminary plan for a planned development.

**FACTS**

The subject property is 7.75 acres, vacant, located within the City of Waldport (city), and is zoned Residential R-1 for single-family dwellings. Surrounding land uses include single-family residential development and some undeveloped, residential-zoned property. Access to the subject property is via an extension of Norwood Drive, an existing public right of way that currently dead-ends before it reaches the property. Norwood Drive serves multiple existing residences. The proposed development would extend Norwood Drive onto the subject property and into a circular street system that would provide access to the new lots. A future second access point is planned at the south end of the subject property and the proposed development includes a street stub to provide access to Kelsey Lane when the property to the south of the subject property is developed. Record 350.

A steep ravine runs along the north and a portion of the east boundaries. Some of the property is comprised of steep slopes but much of the property slopes gently to the west. The proposed extension of Norwood Drive onto the property travels across the ravine. The proposed lots are primarily located on the more gently sloping areas of the subject property. Record 359.

1           The city planning commission granted preliminary plan approval to  
2 intervenor-respondent Tidewater Development, LLC (intervenor) for a 34-lot  
3 single-family residential planned development on the subject property called  
4 Vista View Planned Development (Vista View). Petitioner appealed the  
5 planning commission's decision to the city council, which approved the  
6 application with conditions. The city council found that the subject property  
7 can be served by city water and sewer, and with electricity. Record 4. The city  
8 council imposed a condition of approval that requires intervenor to coordinate  
9 with the city public works department on the design and construction of water,  
10 sewer, and storm drainage facilities and submit final engineering plans for  
11 review and approval prior to construction. Record 8, 10. The city council found  
12 that the proposed development satisfies applicable Waldport Development  
13 Code (WDC) provisions. Record 9. This appeal followed. Petitioner argues that  
14 the decision is not supported by adequate findings, the findings failed to  
15 address all issues raised by opponents, and the city improperly deferred  
16 discretionary decision making to the final plan process.<sup>1</sup>

17           Planned development approval is a two-stage process under the WDC. A  
18 preliminary plan outlines the proposed development and is subject to a public  
19 hearing before the planning commission, which may reject the plan, approve it  
20 as submitted, or approve it with conditions. WDC 16.60.030; WDC

---

<sup>1</sup> Petitioner failed to expressly set out the applicable standard of review for each assignment of error as required by OAR 661-010-0030(4)(d).

1 16.108.020(C). The planning commission's decision may be appealed to the  
2 city council. WDC 16.108.020(C)(5); WDC 16.108.020(H). After preliminary  
3 plan approval, the applicant proceeds with more detailed planning and must  
4 submit a final plan to the city planner with certifications and proof of  
5 compliance with conditions imposed by the preliminary plan approval. If the  
6 city planner is satisfied that the certification requirements and conditions are  
7 met, then the final plan

8 "will be placed on the next practical scheduled meeting of the  
9 Planning Commission for determination that all requirements have  
10 been met. The Commission shall then approve, disapprove or,  
11 when further information is required, postpone a decision on the  
12 plat." WDC 16.60.040(A).

13 We proceed to petitioner's assignments of error, and address them  
14 slightly out of order, beginning with the second assignment of error.

15 **SECOND ASSIGNMENT OF ERROR**

16 WDC 16.96.020 provides:

17 "Development guidelines shall apply to those areas of concern  
18 delineated on the City of Waldport zoning map and in its  
19 comprehensive plan and plan inventories or any area determined  
20 potentially hazardous by the Planning Commission and shall also  
21 apply to any property that has a 20% slope or greater."

22 WDC 16.96.030(D)(4) requires a site-specific geotechnical analysis for  
23 development on slopes greater than 20 percent:

24 "D. Standards. The following shall be required in identified  
25 hazard areas:

26 "\*\*\*\*\*"

1           “4. Slopes greater than twenty (20) percent. A site  
2 specified geotechnical analysis by an Oregon certified  
3 engineering geologist is required. The analysis, which  
4 shall be stamped by the Oregon certified engineering  
5 geologist, shall determine the suitability of the site for  
6 development and shall recommend specific measures  
7 which may be required to safeguard life and  
8 property.”

9           In its decision, the city listed WDC 16.96 as relevant criteria, and  
10 intervenor does not dispute that it applies to the planned development. Record  
11 5. Intervenor does, however, dispute that WDC 16.96 must be satisfied at the  
12 preliminary planning stage. The city council did not determine whether WDC  
13 16.96 was met but instead imposed a condition of approval to ensure future  
14 compliance with that provision: “Geotechnical analyses shall be required where  
15 development of both roads and lots are proposed on slopes greater than twenty  
16 (20) percent.” Record 10.

17           In the second assignment of error petitioner argues that the city’s  
18 decision violates applicable law by deferring geotechnical review to the final  
19 plan process where no public testimony is allowed. See n 3. We understand the  
20 second assignment of error to allege that the city improperly construed WDC  
21 16.96 in failing to apply that provision and require a geotechnical analysis at  
22 the preliminary plan stage.

23           By its terms, WDC 16.96.030(D)(4) requires a geotechnical analysis for  
24 development on slopes greater than 20 percent. However, nothing in WDC  
25 16.60, the chapter that governs planned developments, refers to WDC 16.96.

1 WDC 16.96 is in a separate chapter entitled "Development Guidelines." WDC  
2 16.96.030(D)(4) requires the geotechnical analysis be performed and stamped  
3 by an Oregon certified engineering geologist, and the geologist's analysis  
4 "shall determine the suitability of the site for development and shall  
5 recommend specific measures which may be required to safeguard life and  
6 property." As far as we can tell, WDC 16.96 requires no decision by the city  
7 except for a decision that an Oregon certified engineering geologist has  
8 "determine[d] the suitability of the site for development" and "recommend[ed]  
9 specific measures \* \* \* to safeguard life and property." Petitioner has not  
10 identified anything in the WDC that requires that determination to be made in  
11 the preliminary plan stage. Therefore, we agree with intervenor that the city did  
12 not err in imposing a condition of approval that requires WDC 16.96 to be met  
13 prior to final plan approval.

14 The second assignment of error is denied.

15 **THIRD ASSIGNMENT OF ERROR**

16 As pertinent to petitioner's third assignment of error, pursuant to WDC  
17 16.60.030(C)(3), the city is required to make the following inquiries and  
18 findings before approving a preliminary plan:

19 "C. Preliminary plan approval criteria. Approval by the  
20 Planning Commission of a preliminary plan of a planned  
21 development shall be based on findings that the following  
22 criteria are satisfied:

23 " \* \* \* \* \*

1           “3. The proposed development will provide the following  
2 amenities or protections at a higher level than would  
3 otherwise be provided under conventional land  
4 development procedures: protection of significant  
5 natural and cultural features and resources, such as  
6 historical scientific and cultural resources, fish and  
7 wildlife habitats, stream corridors, riparian areas, and  
8 wetlands; maintenance, enhancement or establishment  
9 of natural vegetation, especially indigenous plant  
10 communities; protection of scenic and aesthetic  
11 qualities; and creation of a high quality built  
12 environment which harmonizes with the natural and  
13 physical features of the site and includes design  
14 features such as suitably located open space,  
15 recreation facilities, and other public and common  
16 facilities, and also includes pedestrian oriented  
17 development which reduces reliance on automobile  
18 travel, provision of solar access or similar measures  
19 to promote energy conservation, or avoidance of risks  
20 and costs associated with environmental hazards.”

21           The city found:

22           “The Planned Development ordinance allows a design that is  
23 tailored to the property. Exceptions to residential and land division  
24 standards are allowed in exchange for tradeoffs, which are  
25 typically the establishment of open spaces, natural resources and  
26 public benefits, *e.g.*, dedication of open space, preservation of  
27 natural drainage ways, [and] public pedestrian facilities such as  
28 trail connections.” Record 7.

29           Petitioner argues that the city’s findings do not explain how the proposed  
30 planned development provides a “higher level” of amenities or protections.  
31           Petition for Review 25. Petitioner asserts that the following issues were raised  
32 but not addressed by the city’s findings: traffic impacts, cost burden, fisheries

1 protection, road improvement impacts, pedestrian impacts and safety, bald  
2 eagle protection, greenspace “tradeoff,” and adequacy of park assessment fee.<sup>2</sup>

3 Intervenor responds that WDC 16.60.030(C)(3) provides examples of  
4 consideration and that the code does not require that the city address every  
5 factor in its findings approving a preliminary plan. Instead, in intervenor’s  
6 view, the code requires a balancing of interests between the proposed planned  
7 development and development under the traditional subdivision provisions of  
8 the WDC. Intervenor’s Response Brief 15. For example, intervenor asserts that  
9 the WDC allows subdivision of the property that could result in 56 buildable  
10 lots, whereas based on constraints and concessions, the proposed planned  
11 development includes only 34 buildable lots, along with open space and trails.  
12 Intervenor argues that WDC 16.60.030 requires the city to balance interests,  
13 such as those amenities and protections listed in WDC 16.60.030(C)(3), to  
14 determine whether the proposed development provides an overall greater good  
15 to the city than a conventional layout for the development under the WDC  
16 subdivision regulations. Intervenor’s Response Brief 15. In intervenor’s view,

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<sup>2</sup> Petitioner argues that bald eagle habitat is present near the subject property. The city found that any bald eagle habitat on or near the property is not relevant in applying WDC 16.60. Record 8. Petitioner does not assign error to that finding or identify any relevant criteria related to bald eagle habitat. Thus, that argument provides no basis for reversal or remand and we do not address it.

1 the list in WDC 16.60.030(C)(3) is a list of considerations and the city has  
2 considerable flexibility in reviewing and approving a preliminary plan.

3 We agree with intervenor that WDC 16.60.030(C)(3) affords the  
4 planning commission and the city council significant flexibility in approving a  
5 planned development. WDC 16.60.010 provides, in part, that “[t]he purpose of  
6 the planned development procedure is to encourage and promote creativity and  
7 innovation in site planning, design and development through the application of  
8 flexible land development standards,” and that “[a]pplication of the planned  
9 development procedure is intended to [a]llow for and encourage development  
10 designs which provide suitable recognition of the physical, topographic,  
11 cultural, historical and natural resource values and constraints present on a  
12 particular site.” *See also* WDC 16.60.020(H) (“Yards, setbacks, lot area, lot  
13 coverage and similar dimensional requirements may be reduced, adjusted or  
14 otherwise modified consistent with the design objectives of the proposed  
15 development.”). The considerations in WDC 16.60.030(C)(3) are not  
16 independent approval criteria, but a list of factors the city should consider.

17 The city did not expressly find that the proposed development will  
18 provide the “amenities or protections at a higher level than would otherwise be  
19 provided under conventional land development procedures.” WDC  
20 16.60.030(C)(3). However, the findings in the decision are sufficient to explain  
21 that the city weighed the considerations in WDC 16.60.030(C)(3) and found  
22 that the preliminary plan satisfies that provision. For example, the approval

1 requires the drainage way and ravine along the northern portion of the eastern  
2 boundary of the property be dedicated as open space with an easement for a  
3 public nature trail. That condition protects open space and natural features and  
4 enhances pedestrian access as well as scenic and aesthetic qualities. The  
5 proposed design of the lots conforms to natural topographic constraints, which  
6 minimizes risks associated with natural hazards. The city's findings are  
7 adequate to explain why it concluded that WDC 16.60.030(C)(3) is met.

8 The third assignment of error is denied.

#### 9 **FIRST AND FOURTH ASSIGNMENTS OF ERROR**

10 We address petitioner's first and fourth assignments of error together.  
11 Petitioner challenges the city's conclusion that the preliminary plan complies  
12 with WDC 16.60.030(C)(4), which provides:

13 "In considering a development proposal, the Planning Commission  
14 shall seek to determine that the development will not overload the  
15 streets outside the planned development area; and that the  
16 proposed utility and drainage facilities are adequate for the  
17 population densities and type of development proposed and will  
18 not create a drainage or pollution problem outside the planned  
19 area."

20 Petitioner challenges the city's decision that WDC 16.60.030(C)(4) is  
21 satisfied with respect to streets, utilities, and storm drainage. The city council  
22 found that water, sewer, and electricity "currently serve or are available to the  
23 subject property" and that those utilities are adequate to serve the proposed  
24 development. Record 4.

1       “The City Council finds the [WDC] and Planning Commission  
2 Findings & Conclusions have measures in place to ensure that  
3 adequate facilities will be design[ed], approved, and constructed.  
4 The Planning Commission’s condition of approval #8 [Condition  
5 8] requires the applicant to submit final engineering plans for  
6 water, sewer, storm drainage, and streets to the City of Waldport  
7 and other applicable agencies for review and approval prior to  
8 construction.” Record 8.

9       Condition 8 provides:

10       “8.   **Water, Sewer, Storm Drainage, and Other Utilities.** The  
11 applicant shall coordinate with the City Public Works Department  
12 on the design and construction of water, sewer, and storm drain  
13 facilities. If the sewer connects to the existing pump station near  
14 Highway 101, [then] the applicant shall provide required upgrades  
15 to the pump station to accommodate the increased flows. Utility  
16 easements shall be provided to the City as required by the Public  
17 Works Director. All utilities shall be placed underground.

18       “Final engineering plans for water, sewer, and storm drainage, and  
19 streets, shall be reviewed and approved by the City Public Works  
20 Director. The developer shall be responsible for any costs incurred  
21 by the City to have a professional registered engineer review and  
22 approve the development plans. Final engineering plans for water  
23 and the street shall also be reviewed by [Central Oregon Coast  
24 Fire & Rescue District].” Record 10.

25       Petitioner argues that the city erred in imposing Condition 8 because,  
26 according to petitioner, Condition 8 defers a conclusion as to whether WDC  
27 16.60.030(C)(4) is met to a later stage that does not allow public participation.  
28 We understand petitioner to argue that the city may defer that conclusion only  
29 if it first finds that the proposed development could feasibly comply with WDC  
30 16.60.030(C)(4). Petitioner cites *Meyer v. City of Portland*, 7 Or LUBA 184,  
31 196 (1983), *aff’d*, 67 Or App 274, 678 P2 741, *rev den*, 297 Or 82 (1984) in

1 support of that position. Petition for Review 10–11. Petitioner further argues  
2 that the city may not rely on future city staff and engineer review prior to final  
3 plan approval because that process does not allow public participation.<sup>3</sup>

4 The Court of Appeals addressed both the feasibility and public  
5 participation issues in *Meyer*, 67 Or App 274. Like this case, *Meyer* was  
6 concerned with a city approval of a planned development and, like the subject  
7 property in this case, the property in *Meyer* contained steep slopes. *Id.* at 276.  
8 In rezoning the property to allow planned development, the city imposed  
9 conditions of approval requiring the applicant to submit satisfactory evidence  
10 that the development would not create geological hazards and that satisfactory  
11 drainage would be provided. *Id.* at 278–79. In approving a conditional use  
12 permit to construct the planned development, the city included a condition of  
13 approval requiring geotechnical studies to verify that roads, drainage ways, and  
14 building sites could be safely developed, including specified methods for storm  
15 and groundwater disposal. *Id.* The approval required all storm and sanitary  
16 sewers be constructed in accordance with the requirements of the city engineer.  
17 *Id.* The petitioners challenged the city’s approval with respect to storm water  
18 control and geotechnical review. *Id.* at 279–80. LUBA affirmed the approval,  
19 reasoning that while the feasibility of the planned development must be shown

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<sup>3</sup> It is not clear to us whether public participation is permitted during the final plan review under WDC 16.60.040.

1 at the preliminary plan stage, technical matters that require expert evaluation  
2 may be deferred to administrative review and approval. *Id.* at 280.

3 With respect to the required geotechnical information, LUBA held that  
4 the city properly concluded, based on information in the record, including  
5 geotechnical studies, that the project was geotechnically feasible and that  
6 detailed geotechnical information for individual building sites was not required  
7 at the preliminary plan stage. *Meyer*, 7 Or LUBA 184, 197. With respect to  
8 storm water, we observed that it seemed probable that the developer would  
9 need to improve the open channels or closed storm sewers to serve the  
10 development. *Id.* at 197–99. The applicant relied on an engineering study in the  
11 record that described existing inadequacies and provided a drainage control  
12 plan. The expert testified that an effective storm drainage system was feasible  
13 and a city engineer testified that applicant’s engineers had adequately  
14 addressed drainage concerns. *Id.* at 199. We concluded that the evidence cited  
15 was sufficient to show that it was feasible to control the storm water and that  
16 detailed plans and precise solutions could be deferred to final plan approval. *Id.*

17 The Court of Appeals affirmed our decision and clarified the applicable  
18 feasibility inquiry.

19 “[B]y ‘feasibility’ LUBA means more than feasibility from a  
20 technical engineering perspective. It means that substantial  
21 evidence supports findings that solutions to certain problems (for  
22 example, landslide potential) posed by a project are possible,  
23 likely and reasonably certain to succeed.”

1 *Meyer*, 67 Or App at 280 n 5 (internal citations omitted). With respect to  
2 deferred review, the court explained that while the city council “must find that  
3 solutions are available, detailed technical matters involved in selecting a  
4 particular solution to each problem are left to be worked out between the  
5 applicant and city’s experts during the second stage approval process for the  
6 final plan.” *Id.* at 282 n 6. The court explained that the city is not required to  
7 provide public hearing and participation in technical discussion and review  
8 after the preliminary plan approval process. *Id.*

9 With that context, we turn to petitioner’s specific challenges regarding  
10 streets, utilities, and storm drainage.

11 With respect to street loading, *i.e.*, traffic impacts, “[i]n considering a  
12 development proposal, the Planning Commission shall seek to determine that  
13 the development will not overload the streets outside the planned development  
14 area[.]” WDC 16.60.030(C)(4). The city council found:

15 “Traffic data used in the evaluation of the application included  
16 reliable and substantiated data. For example, the Institute of  
17 Traffic Engineers (ITE) Trip Generation Report, 8th Edition was  
18 researched to obtain average daily traffic data, *i.e.*, a single-family  
19 house generates approximately 10 trips per day. The City Council  
20 finds the proposed extension of Norwood Drive for the  
21 development of the Vista View [planned development] is well  
22 within the development rights of the property owner. The City  
23 Council affirmed that the future extension of Norwood Drive was  
24 in place at the time the Norwood Drive residence [*sic*] purchased  
25 and developed lots along Norwood Drive.” Record 8.

26 Petitioner argues that those findings are inadequate to explain why the  
27 city council determined that the proposed development will not “overload the

1 streets outside the planned development area,” specifically, Norwood Drive.  
2 Petition for Review 30. Intervenor responds that the city’s findings are  
3 adequate to explain why the city found that the development will not overload  
4 Norwood Drive, based on the city’s calculation that Norwood Drive can  
5 accommodate 1,000 trips per day. Intervenor’s Response Brief 20. Petitioner  
6 acknowledges that a city staff report explained that the national standard for the  
7 maximum daily capacity of a local street is 1,000 vehicles per day. However,  
8 petitioner argues that the staff report cannot be treated as city council findings  
9 because the city council did not adopt the staff report into its findings. Petition  
10 for Review 32.

11 While petitioner is correct that the city council did not expressly adopt  
12 the staff report into its findings, the city’s findings are adequate to explain why  
13 the city concluded that WDC 16.60.030(C)(4) was met with regard to streets:  
14 Norwood Drive has a capacity of 1,000 vehicle trips per day and the projected  
15 trips are less than that. *See Sunnyside Neighborhood v. Clackamas County*, 280  
16 Or 3, 21, 569 P2d 1063 (1977) (findings need not be perfect and do not require  
17 “magic words”). The city council found that “[t]raffic data used in the  
18 evaluation of the application included reliable and substantiated data.” Record  
19 8. Petitioner does not challenge that finding. That finding, combined with  
20 evidence in the record regarding traffic counts, is sufficient to support the city  
21 council’s conclusion that the development will not overload the streets outside  
22 the planned development area.

1           Petitioner next argues that Norwood Drive is not identified in the record  
2 as a “local” street. Petition for Review 35. Petitioner further argues that  
3 existing Norwood Drive is not built to current city standards for local streets  
4 and, therefore, Norwood Drive cannot support 1,000 trips per day as the ITE  
5 Manual suggests. “[A]ny assumption that Norwood can support 1,000 trips per  
6 day is not supported by substantial evidence in the record.” Petition for Review  
7 33.

8           The short answer is that the staff report identifies Norwood Drive as a  
9 local street, and evidence in the record is that a local street can support 1,000  
10 trips per day. That evidence does not distinguish between streets that are built  
11 to current standards and streets that are not. Petitioner points to nothing in the  
12 record (or the city’s adopted Transportation System Plan) that calls that  
13 evidence into question. Absent any basis for calling that identification into  
14 question, we reject petitioner’s argument.

15           In approving the preliminary plan, the city determined that streets within  
16 the property would meet city street standards. The city determined that the  
17 required street improvements, including the extension of Norwood Drive, will  
18 result in a traffic situation that will not overload the streets outside the planned  
19 development area. That determination is supported by substantial evidence in  
20 the record.

21           With respect to utilities, we disagree with petitioner that the city deferred  
22 determining whether the proposed sewer, water, and electricity are adequate to

1 serve the proposed development. The city decided that the development can be  
2 served by existing electrical, water, and sewage facilities, as quoted above. The  
3 city imposed Condition 8 in order to ensure that the final technical details of  
4 the proposed water, sewer, and electricity services are reviewed by city  
5 employees with expertise in those areas. The city's decision includes adequate  
6 feasibility findings with respect to utilities.

7 Our conclusion is different with respect to storm water drainage and  
8 pollution. WDC 16.60.030(C)(4) requires the city to determine during the  
9 preliminary plan stage that "the proposed facilities are adequate for the  
10 population densities and type of development proposed *and will not create a*  
11 *drainage or pollution problem outside the planned area.*" (Emphasis added.)

12 We agree with petitioner that the city's findings fail to explain whether  
13 the storm drainage facilities are adequate to serve the proposed development  
14 and that the proposed development will not create a drainage or pollution  
15 problem outside the planned area. Intervenor responds that the preliminary plan  
16 shows a retention pond, and the storm water will be "channeled downhill in a  
17 controlled pattern." Intervenor's Response Brief 9-10.<sup>4</sup> However, the decision  
18 does not contain any findings that the proposed development will not create a  
19 drainage or pollution problem "outside the planned area." WDC  
20 16.60.030(C)(4). The findings do not address storm drainage at all or explain

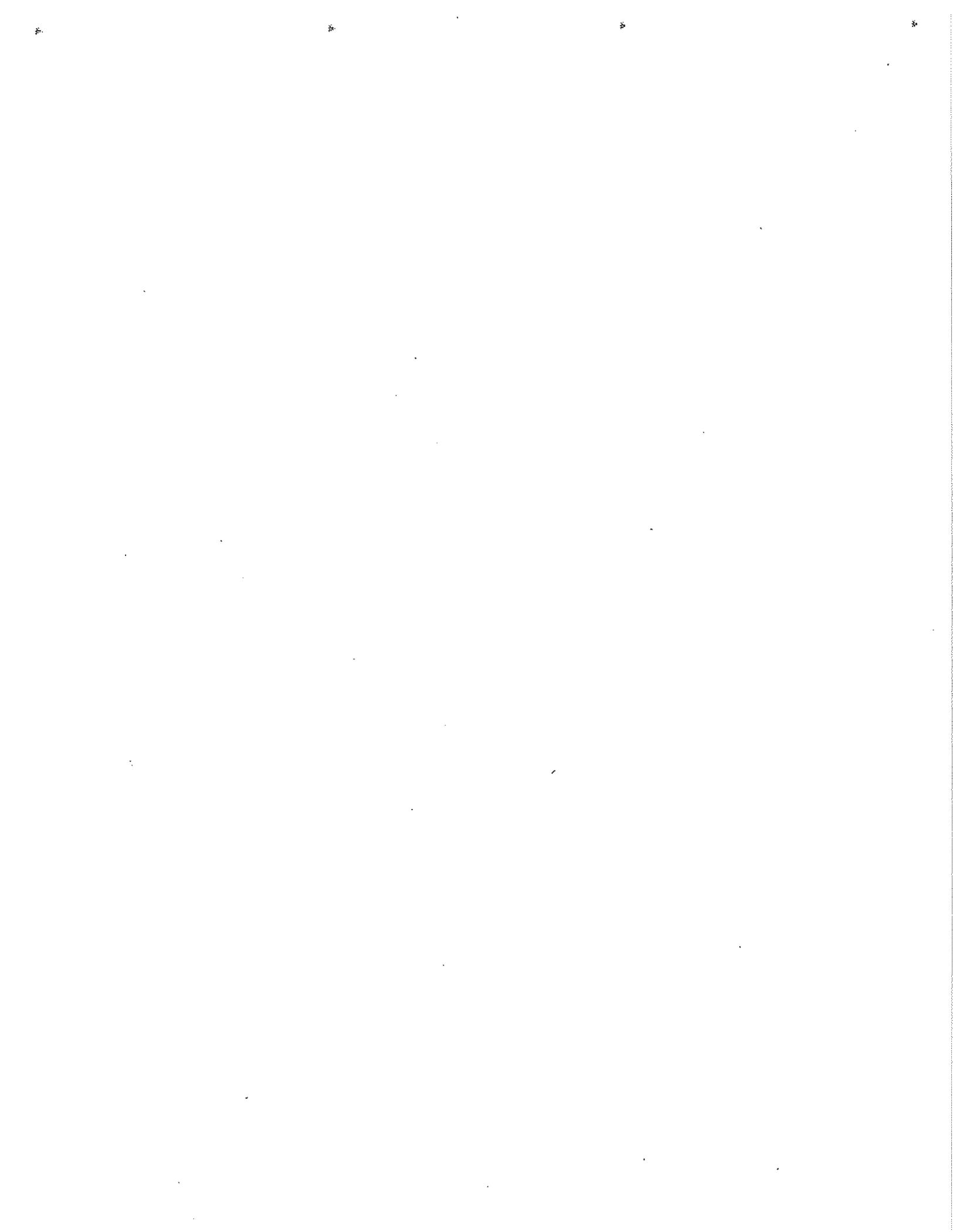
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<sup>4</sup> The proposed plan map shows what is marked as a "Stormwater Facility Detention Pond" on the northern portion of the property.

1 how intervenor's proposed storm drainage plan is adequate to serve the  
2 proposed development without creating a drainage or pollution problem off-  
3 site. Accordingly, remand is required to allow the city to determine whether the  
4 proposed storm drainage facilities are adequate to serve the proposed  
5 development.

6 The first and fourth assignments of error are sustained in part and denied  
7 in part.

8 The decision is remanded.



**BEFORE THE CITY COUNCIL  
OF  
WALDPORT, OREGON**

**Appeal of Planning Commission Preliminary Plan Approval  
Vista View Planned Development**

**Case File #1-PD-PC-17**

**Applicant: Tidewater Development LLC**

**Agent: Dennis L. Bartoldus, Attorney**

**FINDINGS AND CONCLUSIONS**

**Nature of the Application**

The proposed Vista View Planned Development is a planned 34 single family lot development on 7.75 acres. Lot sizes are proposed to range between 4,810 and 9,041 square feet.

Access to the development is proposed at the south end of Norwood Drive. This is the only current legal access to the site. A future second access is planned at the south end of the site. Within the property, a circular street system is proposed to access the lots/homes.

A tract of land along the north and east side of the property is proposed as open space. The applicant proposes the establishment of an easement and construction of a public nature trail through the open space and along the south edge of Lots 11-13.

**Appeal of the Planning Commission's Preliminary Plan Approval**

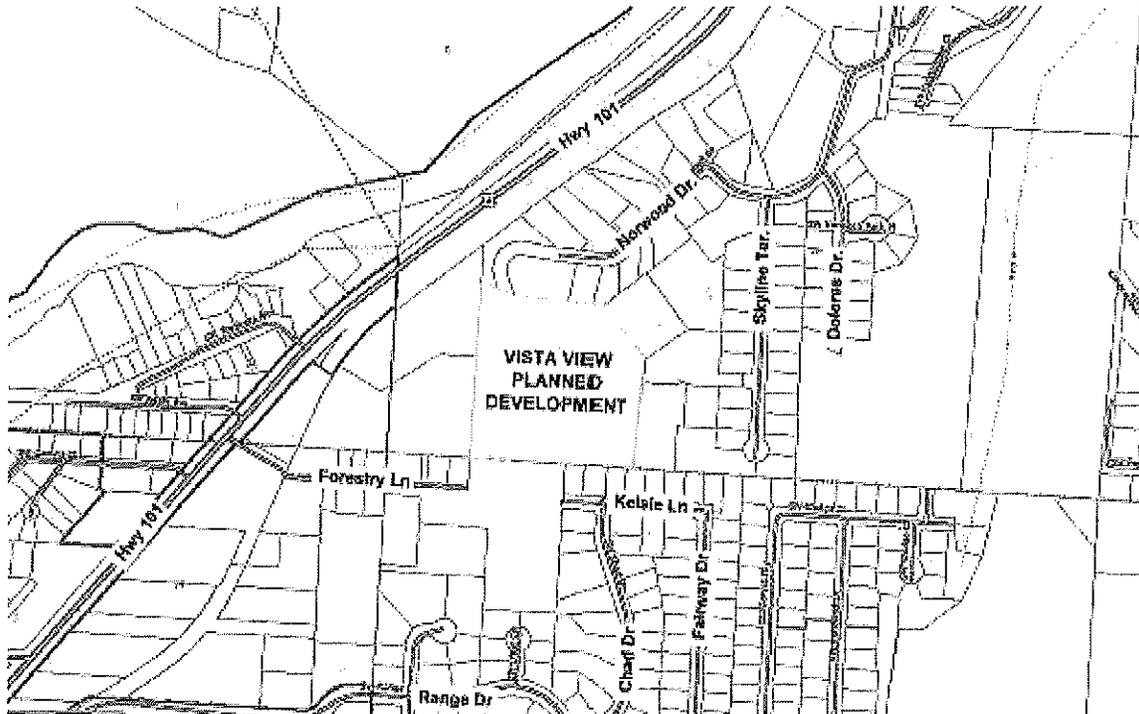
The Planning Commission granted Preliminary Plan approval of the Vista View Planned Development on December 18, 2017. The approval was appealed by Hollis Lundeen on January 2, 2018. The City Council held a public hearing on February 22, 2018 to consider the appeal. Following public testimony and deliberations, the City Council upheld the Planning Commission's Preliminary Plan approval with modification to one condition of approval.

**Relevant Facts**

The following is a summary of the facts and testimony found to be relevant to this decision.

- A. **Property Location:** The subject property is located at the south end of Norwood Drive; and further described on Lincoln County Tax Assessor's Map 13-11-19CC as tax lot 120.
- B. **Zoning:** Residential Zone R-1
- C. **Plan Designation:** Residential Single
- D. **Lot Size:** 7.75 acres
- E. **Existing Structures:** None

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Appeal Findings & Conclusions**



- F. Topography:** The majority of the property is gently sloped to the west. The highest point on the property is in the southeasterly portion of the property. The steepest slopes are on the north end and the northeasterly portion of the property. Most of the property that has steeper slopes is proposed for open space.
- G. Surrounding Land Use:** Single family residential development is generally located to the north and east (Norwood Heights Subdivision) with some undeveloped residential zoned property. Undeveloped residential zoned land and single family residential development (Forest Hills Subdivision) are south of the site. The U.S Forest Service Station and limited single family development is west of the site.
- H. Utilities:** The following utilities currently serve or are available to the subject property:
  - a. Water: City of Waldport
  - b. Sewer: City of Waldport
  - c. Electricity: Central Lincoln P.U.D.
- I. Development Constraints:** There is a steep ravine and drainage way along the north and a portion of the east boundaries.
- J. Public Testimony.** The Planning Commission received written and oral testimony that is summarized in the Planning Commission’s Findings and Conclusions and herein incorporated into the record.

For the appeal, written testimony included seven emails/letters with six people expressing opposition to or concerns with approval of the Vista View Planned Development (PD) and one person in favor of the Vista View PD approval. In summary, opposition or concerns expressed included:

- the need to improve area infrastructure or have an agreement for traffic flow to the south,
- increased traffic and safety on Norwood Drive,
- future cost to existing property owners to improve Norwood Drive,

**#1-PD-PC-17 Vista View Planned Development  
Appeal Findings & Conclusions**

- steep terrain,
- density,
- lot sizes,
- Who will pay for infrastructure?
- Opinion that a south access to Kelsie Ln. is more appropriate than a north access to Norwood Dr.
- Concern that this is a burden to taxpayers of Waldport.
- Is the land stable? Have geological studies been prepared?
- How will the watershed be protected and not impact fishing and commerce directly below in the bay?
- Are there ecological surveys on the water ways and impacts of runoff and rainfall?
- Proof of ownership.

At the February 22, 2018 City Council meeting, the appellant, the applicant's agent, and five citizens provided oral testimony. In summary, the appellant addressed items included in her written submittals including, but not limited to, the seven appeal items, concern that the Waldport Development Code does not cover concerns, proof of land ownership, existing power pole obstruction, unstable ground, questioning the right for someone to develop a public way, drainage, erosion, the need for a wetlands inventory update, bald eagle habitat disturbance, the need for a cultural resource inventory, water and sewer capacity, additional traffic, lot sizes, request for copy of geotechnical report, and the proposed road surface is not specified.

In summary, citizens expressed concerns about traffic, the need for direct access to Hwy 101, ground stability, and code violations.

The applicant's agent addressed how the application and Planning Commission's preliminary plan approval was in accordance with relevant Waldport Development Code and Comprehensive Plan criteria; addressed the seven appeal items, and addressed additional concerns expressed at the February 22, 2018 City Council meeting.

The appellant provided a rebuttal and, in summary, addressed the final plan review procedure, cultural resources, property ownership, and Norwood Drive alignment issues.

The minutes of the February 22, 2018 City Council meeting, and all written and oral testimony are herein incorporated into the record.

**Relevant Criteria**

Relevant Waldport Development Code criteria is identified below by title only. Full descriptions of relevant criteria were included as an attachment to the Planning Commission staff report and are herein incorporated into the record.

Chapter 16.12 Residential Zone R-1

Chapter 16.60 Planned Development Zone P-D (relevant sections)

Chapter 16.72.020 Off-street Parking and Off-Street Loading Requirements

Chapter 16.96 Development Guidelines

Chapter 16.100 Land Division

Waldport Comprehensive Plan – Yaquina John Point Land Use & Transportation Plan

**#1-PD-PC-17 Vista View Planned Development  
Appeal Findings & Conclusions**

**Applicant's Original Proposal**

The applicant originally submitted the Planned Development application form and fee, a narrative describing the general nature of the request and addressing the information required for a land division/replat, Declaration of Conditions, Covenants and Restriction of Vista View, and a site plan showing the proposed street and lot layout, topography, water and sewer, open space, and public access easement for a nature trail. Following the October 23, 2017 Planning Commission meeting, the applicant submitted additional material. All material submitted by the applicant is herein incorporated into the record.

**Public Agency Comment:**

The Waldport Public Works Department and the Central Oregon Coast Fire & Rescue District (COCFRD) provided the following comments related to water service and the proposed private street.

- The 20' street width within a 30' right-of-way is good as long as "No Parking" signs are posted. If the street width is a minimum 26' then parking would be allowed on one side of the street.
- The City recommends construction of sidewalks at the time the street is constructed versus the request for sidewalks to be installed as each house is built.
- The Public Works Department and COCFRD request review and approval of engineering plans prior to construction. The developer shall be responsible for all costs the City incurs for review and approval of plans.

Following the December 4, 2017 Planning Commission meeting, COCFRD confirmed that a 26 foot pavement is adequate to allow for two travel lanes and parking on one side of the street.

**Appellant Submittal**

The Appellant (Hollis Lundeen) submitted the form and fee and the following information:

- Signature Page including 20 signatures of residents and citizens who concur with this appeal
- Narrative with identification and description of seven appeal items, a conclusion, and an immediate concern related to this appeal. In summary, the seven appeal items include:
  - The Findings and Conclusion of the Planning Commission were signed prior to the Planning Commission's approval.
  - Relevant Waldport Development Code criteria in Section 16.60.030 C3 & C4 were not addressed. Subsection C3 states that the proposed development will provide amenities or protections at a higher level than would otherwise be provided under conventional land development procedures. Subsection C4 states that the Planning Commission shall seek to determine that the development will not overload streets outside the planned development area, nor will the proposed development create drainage or pollution problems outside the planned area.
  - The Preliminary Plan approval was made without relative, current, and accurate traffic data.
  - The Preliminary Plan approval is in conflict with the Waldport Yaquina John Point Land Use & Transportation Plan because the Preliminary Plan will result in inadequate utility facilities.
  - Requirements regarding lot size, lot width, road right-of-way and road width were not observed and required, nor was a site plan provided reflecting the Preliminary Plan approval.
  - The Preliminary Plan was approved without verification of ownership regarding the plat that borders the applicant's property.
  - Except for the October 23, 2017 meeting, no additional verbal testimony was allowed.
- Appeal Exhibits
  - Final signed and dated page of Planning Commission Findings and Conclusions

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Appeal Findings & Conclusions**

- Title page of Statewide Planning Goal 5 and Goal 17, city of Waldport Periodic Review, June 30, 1999
- Photographs (3)
- Copy of Norwood Height Dedication of streets and utilities
- Oregon Department of Land Conservation & Development Notice of Adopted Amendment, December 6, 2007
- City of Waldport Ordinance No. 716 (Revised several sections of the Waldport Development Code)
- Photographs (15) of Norwood Drive, utilities, etc.
- Portion of tax map showing south end of Norwood Drive
- Nov. 28, 2017 email from City Planner

The appellant's submittal is herein incorporated into the record.

**Applicant Submittal**

Dennis L. Bartoldus, Attorney for the Applicant, Tidewater Development LLC, submitted a written response to the appeal filed by Hollis Lundeen. The submittal provides a response for each of the appellant's seven allegations.

The applicant's submittal is herein incorporated into the record.

**Findings**

Following public testimony presented at the February 22, 2018 City Council meeting, the City Council deliberated and addressed each of the seven appellant allegations. The seven allegations are identified in *italics* below and followed by the City Council findings. (Please note the full descriptions of the appellant's allegations and the applicant's responses are available for review as part of the record.)

***Appeal Item #1. The Findings and Conclusion of the Planning Commission were signed prior to the Planning Commission's approval.***

**City Council Findings:** This appeal item is irrelevant because the land use decision for this application is now before the City Council. The Findings and Conclusions of the City Council will be the final document of which the decision is based on.

Additionally, the City Council finds the Planning Commission Findings & Conclusions could not have been signed prior to the Planning Commission's decision because the Findings & Conclusions include deliberation and findings that occurred at the December 18, 2017 Planning Commission meeting.

***Appeal Item #2. Relevant Waldport Development Code criteria in Section 16.60.030 C3 & C4 were not addressed. Subsection C3 states that the proposed development will provide amenities or protections at a higher level than would otherwise be provided under conventional land development procedures. Subsection C4 states that the Planning Commission shall seek to determine that the development will not overload streets outside the planned development area, nor will the proposed development create drainage or pollution problems outside the planned area.***

**City Council Findings:** The Planned Development ordinance allows exceptions and the Planning Commission followed procedures in hearing and making a decision on this application. The Planned Development ordinance allows a design that is tailored to the property. Exceptions to residential and land division standards are allowed in exchange for tradeoffs, which are typically the establishment of open spaces, natural resources and public benefits, e.g. dedication of open space, preservation of natural drainage ways, public pedestrian facilities such as trail connections.

**#1-PD-PC-17 Vista View Planned Development  
Appeal Findings & Conclusions**

The drainage way located along the northern portion of the subject property is not subject to restrictions and setbacks stated by the appellant because those cited restrictions and setbacks apply to properties along the Pacific Ocean and Alsea River. The drainage way on the subject property is not designated as a wetland or riparian area.

The alleged bald eagle habitat disturbance is not a relevant criteria in making a decision on this case.

*Appeal Item #3. The Preliminary Plan approval was made without relative, current, and accurate traffic data.*

**City Council Findings:** Traffic data used in the evaluation of the application included reliable and substantiated data. For example, the Institute of Traffic Engineers (ITE) Trip Generation Report, 8<sup>th</sup> Edition was researched to obtain average daily traffic data, i.e. a single family house generates approximately 10 trips per day. The City Council finds the proposed extension of Norwood Drive for the development of the Vista View PD is well within the development rights of the property owner. The City Council affirmed that the future extension of Norwood Drive was in place at the time Norwood Drive residence purchased and developed lots along Norwood Drive.

*Appeal Item #4. The Preliminary Plan approval is in conflict with the Waldport Yaquina John Point Land Use & Transportation Plan because the Preliminary Plan will result in inadequate utility facilities.*

**City Council Findings:** The City Council finds the Waldport Development Code and Planning Commission Findings & Conclusions have measures in place to ensure that adequate utilities facilities will be design, approved, and constructed. The Planning Commission's condition of approval #8 requires the applicant to submit final engineering plans for water, sewer, storm drainage, and streets to the City of Waldport and other applicable agencies for review and approval prior to construction.

*Appeal Item #5. Requirements regarding lot size, lot width, road right-of-way and road width were not observed and required, nor was a site plan provided reflecting the Preliminary Plan approval.*

**City Council Findings:** Section 16.60 Planned Development Zone P-D of the Waldport Development Code allows modifications to standards when it is determined there are benefits to both the city and the property owner, e.g. dedication of open space, preservation of natural drainage ways, and public pedestrian facilities such as trail connections as proposed in the Vista View PD.

*Appeal Item #6. The Preliminary Plan was approved without verification of ownership regarding the plat that borders the applicant's property.*

**City Council Findings:** The City Council finds the developer has the right to develop a street and associated infrastructure within public right-of-way. City review and approval of final engineering plans include verification that proposed new streets are being constructed within a public way or on private property with property owner consent.

*Appeal Item #7. Except for the October 23, 2017 meeting, no additional verbal testimony was allowed.*

**City Council Findings:** This appeal item is irrelevant because the land use decision for this application is now before the City Council. The Findings and Conclusions of the City Council will be the final document of which the decision is based on. The February 22, 2018 public hearing before the City Council allowed for public testimony from any resident or citizen.

**Public Trail.** The City Council raised questions about when the public trail would be constructed. There was discussion and confirmation from the applicant's agent that the public trail would be constructed in

**#1-PD-PC-17 Vista View Planned Development  
Appeal Findings & Conclusions**

Phase 1. The City Council passed a motion to include the condition of approval that the trail be constructed in Phase 1. This requirement is added to Condition of Approval #7 Public Nature Trail.

**Conclusions**

Based on the above facts and findings:

- A. The City Council finds the Planning Commission based their decision on relevant criteria and procedures described in the Waldport Development Code and Comprehensive Plan.
- B. The City Council affirms the Planning Commission findings that the proposed development adheres to the purpose and general requirements of a planned development.
- C. This application and conceptual plan satisfy the provisions of the Waldport Municipal Code and Comprehensive Plan.

**Order**

It is ORDERED by the Waldport City Council that the Planning Commission decision is upheld, and the Preliminary Plan for the Vista View Planned Development be and is hereby approved. Said approval is subject to the following conditions:

- 1. **Planned Development.** Development shall occur in accordance with the approved plan including a maximum 34 single family lots on 7.75 acres. Access to the development shall be from the south end of Norwood Drive. A second access shall be provided for a future extension at the south end of the site. Within the property, a circular street system shall provide access the lots/homes. Streets shall have a minimum 26 foot pavement width within a minimum 32 foot right-of-way width. A tract of land along the north and east side of the property shall be maintained as open space. The applicant shall authorize an easement and construct a public nature trail through the open space that will connect the east edge of the property to the west edge, and continue along the south edge of Lots 11-13, and south to Kelsie Lane. Any substantial change in the plan shall require a new application to be reviewed and approved by the Planning Commission.
- 2. **R-1 Residential Standards and Modifications.** Development shall occur in accordance with R-1 standards and the following modifications:
  - 2a. **Lot Area.** Twenty-three (23) lots may be less than 6,000 square feet including four (4) lots under 5,000 square feet. The smallest lot shall be not less than 4,810 square feet.
  - 2b. **Lot Width.** Lots shown on the proposed plat with an average lot width of less than 60 feet may be developed with lot widths less than 60 feet.
- 3. **Proposed Street and Extension of Norwood Drive.** The Vista View PD shall be accessed from Norwood Drive near the northwest corner of the property as shown on the submitted plan. Streets within the property shall be within public right-of-way. The street shall extend south into the property, then a circular street will provide access to the lots. The Vista View streets shall have a minimum 26 foot wide pavement with one travel lane in each direction and parallel parking on one side of the street, a minimum 1 foot wide standard curb and gutter on each side, and a 4 foot wide sidewalk on one side for a minimum right-of-way width of 32 feet. The sidewalk shall be constructed when the street is constructed. Two on-site parking spaces shall be provided for each lot.

Each phase of development shall include an emergency vehicle turnaround. The turnaround requires approval of dimensions and materials by the Central Oregon Coast Fire & Rescue District prior to construction.

**#1-PD-PC-17 Vista View Planned Development  
Appeal Findings & Conclusions**

Norwood Drive shall be improved from the property to the existing Norwood Drive pavement (approximately 330 feet) and include a minimum 26 foot wide pavement with curb and gutter, and 4 foot wide sidewalk on one side. The applicant shall work with the City to determine the best side for a sidewalk. The sidewalk shall be constructed when the street is constructed.

4. **Proposed Street Extension to South Property Line.** The street shall extend to the south property line to allow for future street extension to the south. The street extension to the south property line shall be constructed when the Vista View development exceeds 19 lots (Phase 2).
5. **Open Space and Drainage Way.** The drainage way and ravine along the northern and portion of the eastern edge of the property shall be dedicated as open space in accordance with the approved plan. The developer or homeowners association shall be responsible for maintenance of the open space.
6. **Park Assessment Fee.** A park assessment fee totaling \$16,879.50 shall be paid to the City. The park assessment fee may be paid by phase. The fee per phase shall be calculated as follows: Gross area of the phase x 5% x \$1 per square foot. The park assessment fee shall be paid prior to final approval of each phase.
7. **Public Nature Trail.** The applicant shall authorize an easement for a public nature trail through the open space that will connect the east edge of the property to the west edge, and continue along the south edge of Lots 11-13. The applicant shall coordinate with the City to determine the best trail route given topographic constraints and future trail extensions. The public nature trail shall be constructed prior to final approval of Phase 1.
8. **Water, Sewer, Storm Drainage, and Other Utilities.** The applicant shall coordinate with the City Public Works Department on the design and construction of water, sewer, and storm drain facilities. If the sewer connects to the existing pump station near Hwy 101, the applicant shall provide required upgrades to the pump station to accommodate increased flows. Utility easements shall be provided to the City as requested by the Public Works Director. All utilities shall be placed underground.  
  
Final engineering plans for water, sewer, storm drainage, and streets shall be reviewed and approved by the City Public Works Director. The developer shall be responsible for any costs incurred by the City to have a professional registered engineer review and approve development plans. Final engineering plans for water and the street shall also be reviewed and approved by COCFRD.
9. **Geotechnical Analyses.** Geotechnical analyses shall be required where development of both roads and lots are proposed on slopes greater than twenty (20) percent.
10. **Off-Street Parking.** New single family homes are required to have a minimum of two on-site parking spaces including at least one covered parking space, i.e. garage or carport.
11. **Phasing and Time Limits of a Preliminary PD Approval.** Phase 1 shall consist of 19 lots including lot numbers 11-24 and 25, 34, 33, 32 and 31 as shown on the submitted plan. The number of lots in additional phases shall be determined by market conditions and the rate of sale of developed lots. The street extension to the south property line shall occur in Phase 2. The phasing plan shall be as follows:

Phase 1: January 2018 – January 2020

Phase 2: January 2020 – January 2022

**#1-PD-PC-17 Vista View Planned Development  
Appeal Findings & Conclusions**

Phase 3: January 2022 – January 2024

Phase 4: January 2024 – January 2026

12. **Final Plan Review Procedure.** When the city planner determines that all of the certifications set forth below have been met and that the plat conforms in all respects to the tentative plan as approved, consideration of the plat will be placed on the next practical scheduled meeting of the Planning Commission for determination that all requirements have been met. The Commission shall then approve, disapprove or, when further information is required, postpone a decision on the plat. Requests for final plan approval of a planned development shall be accompanied by the following certifications:

- a. A certified copy of all covenants and restrictions;
- b. Certified copies of legal documents required for dedication of public facilities or for the creation of a homeowner's association;
- c. The certification, performance agreement or statement regarding the availability of water and sewerage services;
- d. As-built certifications for all required roads and utilities unless otherwise guaranteed by a performance agreement;
- e. A plat and one exact copy meeting the requirements of Section 16.100.060 of this chapter and ORS 92.050-92.100.
- f. A preliminary title report, lot book report, subdivision guaranty report or equivalent documentation of the ownership of the subject property, issued not more than thirty (30) days prior to the date the final plat is submitted for final approval. Such a report shall also identify all easements of record.

This ORDER was presented to and approved by the Waldport City Council on March 8, 2018.

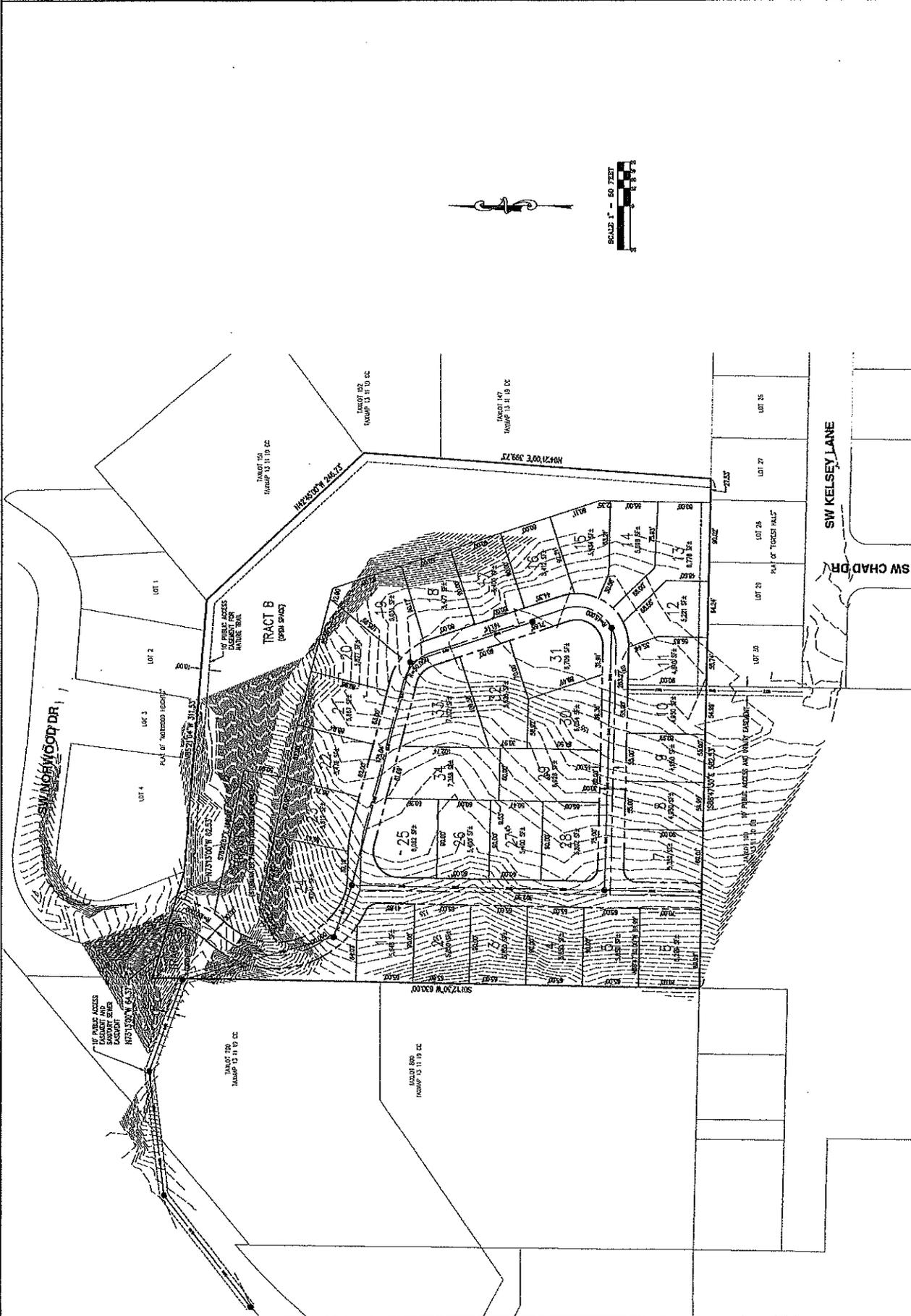
  
\_\_\_\_\_  
Susan Woodruff, Mayor

3-8-18  
Date

Attachments: Planning Commission Findings & Conclusions  
Preliminary PUD Layout

DATE	11/11/78
BY	AS NOTED
SCALE	AS NOTED
PROJECT NO.	11/11/78
JOB NUMBER	
SHEET	

PLANNING



January 22, 2019

**To: Waldport Planning Commission**

**From: Larry Lewis, City Planner**

**Re: Waldport Development Code Amendments**

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This memorandum provides a summary of written testimony and oral testimony provided at the December 3, 2018 Planning Commission meeting.

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**Mobile Vending Regulations**

No oral testimony

Written testimony – preference for mobile vending regulations to be a conditional use

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**Conex or Other Metal Container Regulations**

Two possible modifications to the draft language were brought up prior to receiving oral testimony.

- a. Besides the Planned Industrial zone (I-P), consider allowing metal containers in the General commercial (C-2) zone and Public Facilities (P-F) zone if the containers are screened from view.
- b. Consider allowing metal containers on-site during planned development and subdivision construction to store equipment.

Oral testimony

- a. Request to allow in the C-2 zone. Grandpa's Feed Store (zoned C-2) have had metal containers for storage of hay, feed, and pellets for over 15 years
- b. Question on how the concern about metal containers was initiated.
- c. Question on whether or not metal dumpsters are considered metal containers.
- d. Description was somewhat confusing.
- e. Consider allowing metal storage containers on construction sites.

Written Testimony

Metal containers make sense as a temporary use to provide secure storage for construction or events in zones other than Industrial.

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**Appeal Timing and Proceedings**

Oral testimony

Draft language is unfair to appellants. Consider not adopting the proposed amendment. If adopted, timing of City Planner giving notice of an appeal should be the same as an appellant's time limits to appeal.

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## **Livestock Regulations**

### Oral testimony

- a. Consider allowing small livestock such as pygmy goats or sheep. If the language specified pygmy or Nigerian miniature goats it would provide a size limitation.
- b. Research of other city regulations has shown that those who allowed goats limited the number of animals to two per acre, and specified a size limitation.

### Written Testimony

Livestock outside a secure hutch, for anytime during the day or not contained constantly within adequate fencing, may attract unwanted predators. Careful attention should be given to public safety.

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## **Subdivision and Planned Development Time Limits**

### Oral testimony

- a. Time limits should remain unchanged as the current time limits ensure that developers would complete a development within a specific time frames rather than allowing them to become an ongoing issue.
  - b. Past experience that subdivision could not be completed within the time frame so developer is now looking at partitioning the property rather than developing a subdivision.
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## **Downtown District Zone (D-D)**

Consensus to delay consideration and include this topic in the next round of code amendment public hearings.

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## **Notification of Land Use Applications**

Consensus to delay consideration and include this topic in the next round of code amendment public hearings.

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August 13, 2018

**To: Waldport Planning Commission**

**From: Larry Lewis, City Planner**

**Re: 2018 Waldport Development Code Amendments  
UPDATED DRAFT AMENDMENT FOR MOBILE VENDING**

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The following draft amendment is based on input received at the July 30, 2018 Planning Commission meeting.

**WDC 16.04.030 Definitions**

“Mobile Vending” means a structure, cart, trailer, or stand which is movable from place to place, and is used for the purpose of selling merchandise, or foods, and/or beverages to the public if it is equipped to dispense food or beverage and/or prepare the food or beverage for consumption. A mobile vending stand does not contain space for customers to enter the stand to purchase or consume products.

The draft amendment language for mobile vending is proposed to be added to the following sections.

**16.28 Retail Commercial Zone C-1**

**16.28.010 Uses Permitted Outright**

**Chapter 16.30 Downtown District Zone DD**

**16.030.010 Uses Permitted Outright**

**Chapter 16.32 General Commercial Zone C-2**

**16.32.010 Uses Permitted Outright**

*Draft amendment language for the above identified sections:*

Mobile vending, provided:

1. the entire mobile vending structure, cart, trailer, or stand, and serving area shall not be located in the public right-of-way unless participating in a city-sanctioned event.
2. a business license is maintained, unless participating in a city-sanctioned event,
3. all County and State health standards are met,
4. water, sewer and electrical connections must be made in a safe manner,
5. any person operating a mobile vending structure, cart, trailer, or stand shall pick up any litter in any form within fifty (50) feet of the mobile vending structure, cart, trailer, or stand at any time the person is conducting business, and shall be responsible for the disposal of same,
6. parking requirements for the property are met.

August 13, 2018

**To: Waldport Planning Commission**

**From: Larry Lewis, City Planner**

**Re: 2018 Waldport Development Code Amendments  
UPDATED DRAFT AMENDMENT FOR  
CONEX OR OTHER METAL CONTAINERS**

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The following draft amendment is based on input received at the July 30, 2018 Planning Commission meeting.

## **WALDPOR T DEVELOPMENT CODE**

### **16.72 Supplementary Regulations**

#### **16.72.040 General provisions regarding accessory uses.**

An accessory use shall comply with all requirements for a principal use, except as the code specifically allows to the contrary, and shall comply with the following limitations:

- A. An accessory structure not used for human habitation and separated from the main building may be located to within five (5) feet of a rear property line if the structure is no more than fifteen (15) feet in height. Structures over fifteen (15) feet must meet the standard setbacks. Conex or other metal cargo containers are prohibited in all zoning districts except for Planned Industrial zones.

August 17, 2018

**To: Waldport Planning Commission**

**From: Larry Lewis, City Planner**

**Re: 2018 Waldport Development Code Amendments  
Updated Draft Amendment for  
APPEAL TIMING AND PROCEEDINGS**

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Waldport Development Code Section 16.108.020.H identifies Appeals of Commission or Hearing Body Decision. The second-to-last last sentence of this section states “When an appeal is filed, within ten (10) days of such filing, the City Planner shall provide to the City Council the record of the proceedings and a decision of the commission or hearings body.”

City staff recommends replacing this sentence as follows:

When an appeal is filed, within ~~ten (10)~~ ***twenty one (21)*** days of such filing, the City Planner shall ~~provide to the~~ ***notify the*** City Council ~~the record of the proceedings and a decision of the commission or hearings body~~ ***that an appeal has been filed and identify the date for the City Council hearing.***

August 13, 2018

**To: Waldport Planning Commission**

**From: Larry Lewis, City Planner**

**Re: 2018 Waldport Development Code Amendments  
DRAFT AMENDMENT FOR LIVESTOCK**

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The following draft amendment is based on input received at the July 30, 2018 Planning Commission meeting.

## **WALDPOR T DEVELOPMENT CODE**

### **16.04 Introductory Provisions and Definitions**

#### **16.04.030 Definitions.**

"Livestock" means domestic animals and fowl or types customarily raised or kept on farms for profit or other purposes. This definition does not include household pets such as dogs or cats. Livestock allowed within the City limits includes domestic fowl (chickens and ducks) and rabbits. See Section 16.72 (Supplementary Regulations) for standards.

### **16.12 Residential Zone R-1**

#### **16.12.010 Uses permitted outright.**

In an R-1 zone, the following uses and their accessory uses are permitted outright subject to the applicable provisions of Chapters 16.72, 16.76, 16.80 and 16.96 of this title:

D. Agricultural use of land. The keeping of livestock is subject to provisions of Chapter 16.72, Supplementary Regulations;

### **16.72 Supplementary Regulations**

#### **16.72.130 Standards for the Keeping of *Livestock*.**

The purpose of this section is to allow for a limited number of livestock on certain properties. The following standards shall be required for the keeping of livestock as allowed by Section 16.12.010 of this title.

A. The keeping of livestock shall be permitted on properties used for single-family and two-family residential purposes or on C-1 and C-2 properties. Livestock shall be contained on the same premises where the owner of the livestock resides.

B. Quantities and Sizes of Permitted Livestock.

DRAFT AMENDMENT FOR PUBLIC HEARING

1. Chickens and Ducks. Properties that are one-half acre or less are allowed no more than a combination of six (6) chickens and ducks. Properties exceeding one-half acre are allowed no more than a combination of ten (10) chickens and ducks.
  2. Rabbits. Up to 6 over six months of age and 6 under six months of age are allowed.
- C. The keeping of roosters and drakes shall be prohibited.
- D. Livestock shall be contained within the premises throughout the day. Livestock shall be contained throughout the night within an enclosed coop or other structure to prevent dogs, coyotes, cats, raccoons, and other predators and pests from accessing the birds. Enclosures containing the livestock that are separated from the main building may be located within five (5) feet of a rear property line if the structure is no more than fifteen (15) feet in height. Structures over fifteen (15) feet must meet the standard setbacks.
- E. Food for livestock shall be stored in a secure area free of vermin and not accessible to bears, raccoons, or other scavengers. When food is secured for the night, all food containers shall be secured.
- F. Livestock enclosures shall be kept in a good working and sanitary condition, and shall not cause odor or noise nuisances.

August 17, 2018

**To: Waldport Planning Commission**

**From: Larry Lewis, City Planner**

**Re: 2018 Waldport Development Code Amendments  
Updated Draft Amendment for  
PLANNED DEVELOPMENT AND SUBDIVISION TIME LIMITS**

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**Issue**

The time limits of preliminary plan approvals for planned developments and tentative plan approvals for subdivisions do not match market conditions. Preliminary and tentative approvals are valid for 2 years with a possible extension. Planned Developments and Subdivisions typically take several years to develop depending on market conditions. Developers often request a multiple phased development with each phase having a two year time limit. For example, the time limits for a preliminary approval of a three-phased development would be:

Phase 1: 2018-19

Phase 2: 2020-21

Phase 3: 2022-23

This request is typically more aligned with market conditions however it is not described in the Code. The Code could be amended to align with typical market conditions.

**Existing and Draft Amended Waldport Development Code Sections 16.60 and 16.100.**

16.60 Planned Development Zone (P-D)

16.60.030.D Time Limit on preliminary plan approval.

Approval of a preliminary plan in accordance with this section is valid for a period of ~~two (2)~~ **three (3) years per phase**, unless a longer period of time is specifically authorized by the Commission. ***Phases are allowed to run consecutively, e.g. Phase 1: Years 1-3, Phase 2: Years 4-6.***

16.60.030.E Time extension on preliminary plan approval.

Approval of a preliminary plan of a planned development may be extended ~~beyond the two (2) year or other approved period upon~~ **written** request. ~~Requests for time extensions shall be made on a form prescribed by the city.~~ Requests for time extensions shall be considered and acted upon in accordance with Section 16.108.020(A) of this title or may be submitted to the planning commission for their decision. In considering a request for a time extension, the city planner or the commission may consider to what extent any required improvements have been constructed or completed, whether there have been any changes in circumstances or in applicable code or statutory requirements which could have affected the original approval, and whether additional conditions or requirements could be imposed on the preliminary plan approval which would satisfactorily address any deficiencies resulting from changed circumstances or code or statutory requirements. In granting a request for a time extension, the city planner or the planning commission may impose such additional conditions or requirements as are considered

appropriate. A time extension shall be for a period of ~~one year~~ **three (3) years or less**. Not more than three (3) time extensions of a preliminary plan approval may be granted.

#### 16.100 Land Division

##### 16.100.050.E Time limit on tentative approval.

Approval of a tentative plan of a partition, subdivision or replat is valid for a period of ~~two (2)~~ **three (3) years per phase** from the effective date of the approval. **Phases are allowed to run consecutively, e.g. Phase 1: Years 1-3, Phase 2: Years 4-6.** If no request for final approval or time extension has been received within ~~this two-year~~ **the approved** period, the tentative plan approval shall expire.

F. Time extension of tentative approval. Approval of a preliminary plan of a planned development may be extended ~~beyond the two (2) year or other approved period upon~~ **written** request. ~~Requests for time extensions shall be made to the city planner on a form prescribed by the city.~~ Requests for time extensions shall be considered and acted upon in accordance with Section 16.108.020(A) of this title. A time extension shall be for a period of ~~one (1) year~~ **three (3) years or less**. Not more than three (3) ~~one-year time~~ extensions of a tentative approval may be granted.

In considering a request for time extension, the city planner or commission may consider the following:

1. To what extent any required improvements have been constructed or completed;
2. Whether there have been any changes in circumstances or in applicable code or statutory requirements which would render the original approval inappropriate or non-conforming;
3. Whether additional conditions or requirements could be imposed on the tentative plan approval which would satisfactorily address any deficiencies resulting from changed circumstances or code or statutory requirements. In granting a request for a time extension, the city planner or the commission may impose such additional conditions or requirements as are considered appropriate.

**City of Waldport  
2019 LAND USE / BUILDING PERMIT ACTIVITY**

Date	Application/ Activity	Applicant	Zoning	Tax Map/Lot Location	Description	Status
<b>For the Period <u>November 17, 2018</u> through <u>December 31, 2018</u></b>						
11/26/18	Building Permit	Jennie Krause	D-D	13-11-19BD/4100 140 Hwy 101 (former Well Read Books & Lil Joe's)	Remodel bathroom to be ADA compliant	Approved 11/30/18
11/30/18	Building Permit	Russell Akin	R-1	13-11-30AB/6100 1240 Michael St	New detached garage	Approved 11/30/18
12/12/18	On-site Waste Management Permit	Dahl & Dahl	I-P	13-11-30B/400 235 Dahl Ave South Lincoln Landfill	New holding tank	Approved 12/14/18
12/21/18	Partition Application	Brandt Thissell	RR-2	13-12-36AB/1200 Fernwood Ln	2-lot partition of 5.41 acre parcel	Tentative approval granted 1/15/19

**For the Period January 1, 2019 through January 21, 2019**

1/2/19	On-site Waste Management Permit	Colleen & Mark Wiederhold	R-3	13-11-20CA/500 1739 Alsea Hwy	Septic tank replacement	Approved 1/8/19
1/15/19	Building Permit	Richard Snow	C-1	13-12-24DD/300 828 SW Hwy 101 Hilltop Cafe	Kitchen addition	Approved 1/5/19